S. HRG. 99-561

NOMINATIONS—OCTOBER

HEARINGS

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

ON

OCTOBER 3, 1985

WILLIAM R. GRAHAM, TO BE DEPUTY ADMINISTRATOR, NATIONAL AERONAUTICAL AND SPACE ADMINISTRATION

OCTOBER 9, 1985

ROBERT ELSNER AND KAREN W. PRYOR, TO BE MEMBERS, MARINE MAMMAL COMMISSION

OCTOBER 17, 1985

FRANCIS J. IVANCIE, TO BE A COMMISSIONER; EDWARD V. HICKEY, JR., TO BE CHAIRMAN, FEDERAL MARITIME COMMISSION; AND JOHN GAUGHAN, TO BE ADMINISTRATOR, MARITIME ADMINISTRATION

OCTOBER 22, 1985

KENNETH J. HILL; JOHN K. LAUBER; AND VERNON L. GROSE, TO BE MEMBERS, NATIONAL TRANSPORTATION SAFETY BOARD

OCTOBER 23, 1985

MICHAEL A. McMANUS, JR., AND NEAL B. FREEMAN, TO SERVE ON THE BOARD OF DIRECTORS, COMMUNICATIONS SATELLITE CORPORATION

OCTOBER 24, 1985

CAROL G. DAWSON, TO BE A COMMISSIONER, CONSUMER PRODUCT SAFETY COMMISSION

Printed for the use of the
Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE
56-017 O WASHINGTON : 1986

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WILLIAM R. GRAHAM, TO BE DEPUTY ADMINISTRATOR, NASA

THURSDAY, OCTOBER 3, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:52 a.m., in room SR-253, Russell Senate Office Building, Hon. Slade Gorton presiding.

Staff members assigned to this hearing: Pete Perkins, professional staff member; and Marty Kress, minority staff counsel.

OPENING STATEMENT BY SENATOR GORTON

Senator **GORTON**. Welcome to this hearing of the Commerce Committee as it considers the nomination of Dr. William Graham to be Deputy Administrator of the National Aeronautics and Space Administration.

As we consider this nomination, we should bear in mind not only our present and planned aeronautical and space activities, but also where we want NASA to take us 25 or even 50 years from now.

We all know that NASA's once unchallenged position of leadership in the world is being seriously challenged from all quarters of the globe. Space commercialization, as intriguing and promising as it is, has given rise to a whole new set of complex issues.

In addition, this year, as in the years to come, as we attempt to reduce our Federal deficits, NASA will have to examine more closely than ever its mission and its priorities. The next decade will also be an exciting period as we progress toward establishing a permanently manned presence in space, and as we discover new horizons that will enlighten our understanding of the past, present, and future.

Now, more than ever, NASA must establish itself as the world leader in science and technology. If this country is to maintain its position of leadership in the world in aeronautical and space research and technology, NASA must be willing to accept new challenges and responsibilities with the same quest for excellence that it has demonstrated since its creation 27 years ago.

With these thoughts in mind, I am pleased to welcome Dr. Graham to this hearing. Senator Pete Wilson of California will introduce Dr. Graham, who upon his expected confirmation will have to count himself as one of Senator Wilson's former constituents.

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM CALIFORNIA

Senator WILSON. Mr. Chairman, thank you.

It is my very great pleasure to introduce a fellow Californian. As you have pointed out, Dr. William R. Graham is one of the country's truly outstanding scientists and the President's nominee to be the Deputy Administrator of NASA.

He has served with great distinction as the chairman of the President's General Advisory Committee on Arms Control and Disarmament. After being nominated by President Reagan in 1982 and confirmed by the U.S. Senate, Dr. Graham is a founder and executive of R&D Associates, an advanced technology corporation working in the areas of national security energy systems, communications systems, electronics, and related technologies.

His keen sense of business management will serve the taxpayer well, as does his distinguished scientific background. Prior to the founding of R&D Associates, Dr. Graham spent 6 years on the staff of the Rand Corp., and his service to the country also includes 3 years as an active duty officer at the Air Force Weapons Laboratory directing a group that conducted both experimental and theoretical research.

Dr. Graham's education is as impressive as are the California institutes from which he received it. He is the recipient of a bachelor of science in physics with honors from the California Institute of Technology, a master of science in engineering science, and a doctor of philosophy in electrical engineering from Stanford University.

His intellect and honesty and his high character will allow this Nation to meet the challenges to its leadership in space in the years ahead.

Mr. Chairman, the brevity of my presentation arises from the fact that I think the record which you have before you speaks far more eloquently than could any words in praise of Dr. Graham, both in terms of qualification and achievement.

I would simply say that I believe that his intellect, which is well documented, is equaled by his character, so I take great pleasure, unqualified pleasure in introducing him to this committee, and know that you will act promptly on this very important nomination.

Senator GORTON. Thank you, Senator Wilson, for that eloquent statement. We do have a statement by the distinguished ranking member of the committee, Senator Hollings, along with the biographical sketch, which will be included in the record.

[The statement and biographical sketch follow:]

OPENING STATEMENT BY SENATOR HOLLINGS

Mr. Chairman, this morning we will consider the nomination of Dr. William R. Graham to be Deputy Administrator of NASA.

I am glad to see that the Administration has finally submitted a candidate for this position because during these challenging times NASA can ill afford to be lacking a Deputy Administrator.

At a time when NASA is embarking on a major new initiative—the space station—entering a major new era—the era of space commercialization—and confronting, as are other federal agencies, the problem of fiscal restraint, Mr. Jim Beggs deserves a capable assistant who can aid him in finding resolutions to these problems and who can assist in the management of the agency.

I must admit that Dr. Graham is the least well-known nomination for a high level NASA post I have ever encountered. However, I am hopeful that during the course of today's hearing, Dr. Graham's qualifications for the position of Deputy Administrator of NASA will be self-evident and that he will give the Committee an indication of what his role and responsibilities will be at NASA.

I also hope that Dr. Graham is willing to work with me in my efforts to get a NASA Center in South Carolina.

I look forward to Dr. Graham's testimony and to working with him to formulate a sound civilian space policy and a vibrant NASA.

BIOGRAPHICAL SKETCH OF WILLIAM ROBERT GRAHAM, JR.

Address: 7517 Royal Oak Drive, McLean, VA 22102.

Date of birth: June 15, 1937.

Place of birth: San Antonio, TX.

Marital status: Nina Harrison Winter.

Names and ages of children: Ian Robert Graham, 19, Elizabeth Holley Graham, 14.

Education: California Institute of Technology, 1955–1959, Bachelor of Science in Physics (with Honors) 1959; Stanford University, 1959–1961, Master of Science in Engineering Science; Stanford University, 1963, Doctor of Philosophy in Electrical Engineering.

Employment record—1971-Present: Headquarters, R&D Associates, Marina del Rey, CA; Senior Associate, Co-founder of Company, Director of Computing Operations (1971–1973), Division Manager (1973–1985), Corporate Program Manager (1977–1981), President's Staff (1981-Present). 1965–1971: The Rand Coporation, Santa Monica, CA; Member, Technical Staff, Physics Department. 1962–1965: Air Force Weapons Laboratory, Kirtland Air Force Base, Albuquerque, NM; Project Officer. 1961-1962: Hughes Aircraft Corporation Research Laboratory, Malibu, CA; Member, Technical Staff. 1959-1961: Hughes Aircraft Company, Culver City, CA; Member, Technical Staff.

Government experience—1982-Present: Chairman, President's General Advisory Committee on Arms Control and Disarmament. 1975-Present: Member, Defense Nuclear Agency Scientific Advisory Group on Effects; Consultant, Defense Nuclear Agency. 1964–1971: Consultant, United States-United Kingdom Joint Working Group on Atomic Weapons. 1970–1981: Consultant, Office of the Secretary of Defense. 1970–1981: Member, Defense Science Board System, Vulnerability Task Force and Associated Task Forces. 1980: Member, Department of Defense Transition Team, Office of President-Elect Ronald Reagan. 1974–1975: Member, Air Force Science Advisory Board Task Force on Manned Strategic System Vulnerability. 1970–1971: Consultant, National Academy of Science/National Research Council Committee on Undersea Warfare.

Senator **GORTON**. With that, Dr. Graham, we welcome you here, and we will be happy to hear your formal statement.

STATEMENT OF DR. WILLIAM R. GRAHAM

Dr. **GRAHAM**. Thank you very much, Mr. Chairman.

Thank you, Senator Wilson, for that most gracious introduction.

Mr. Chairman, I am honored to appear before the committee as the President's nominee to serve as the Deputy Administrator of NASA. The challenges and opportunities we face in the Nation's space program are truly exciting. One of the principal duties of government in a democracy is to help lead the Nation into the future.

NASA, I believe, is on the leading edge of that journey. The spirit of the American people is bound up in NASA's wide range of endeavors and the many contributions of the space program to the Nation's well-being are now legend.

My scientific and engineering background, professional experience in managing scientific personnel and technical programs, and my personal commitment to the President's national space policy have prepared me for the duties of the Deputy Administrator of NASA.

If confirmed, I look forward to working with Congress to ensure that America remains the world leader in space as we prepare for the next decade and the next century.

Mr. Chairman, I would be pleased to respond to any questions that you may have.

Senator **Gorton**. My first question comes right out of your statement, Dr. Graham. You say the challenges and opportunities we face in the Nation's space program are truly exciting.

What are the three or four most truly exciting and important of those challenges?

Dr. **Graham**. Mr. Chairman, I believe that the policy guidance that NASA has received from the Congress and the President's space policy provide a framework in which NASA has clear direction for proceeding into the future.

At the very leading edge of NASA's work, the maintenance of a strong scientific and research program in space and atmospheric programs is essential. At the larger and more applied scale, maintaining and making more accessible and more cost effective transportation to space and operations in space, including operations on the space platform and the space station, loom large in the immediate future of NASA. Beyond that, the guidance to help promote and stimulate the commercialization of space is a program which NASA is now undertaking with great dedication, and which will have to be pursued for many years.

All of this, Mr. Chairman, must be conducted by NASA in an environment of great fiscal restraint and frugality so that the overall budget situation of the U.S. Government can in fact be dealt with while simultaneously maintaining our leadership in space. Those seem to be the principal issues that NASA must face in the future.

Senator **Wilson**. Mr. Chairman, if you would excuse me, as much as I regret, I am fascinated and would happily stay here and listen. I have had the opportunity to discuss some of these same very exciting things with Bill, but I am required to be in Dirksen in about 5 minutes, so if you will excuse me.

Senator **Gorton**. Thank you, Senator Wilson, very much.

Let us assume that we were able to deploy a space station in a fairly complete fashion by the mid-1990's. That is—certainly the major new project in which NASA is engaged at the present time.

Is it your view that we should already be planning for the next major project in space after that space station, and if so, what would the major mid-1990's to early 2000's potential projects be?

Dr. **Graham**. Yes, Mr. Chairman. On the assumption that the space station does go ahead on schedule, I think it is very much in front of NASA to prepare for large programs beyond the station.

These programs generally require a long period of technological preparation, fundamental research, exploratory development before they can be efficiently taken to the large program stage.

In fact, I believe that several such programs should be taken through the embryonic stage in the next decade, so that they will be ready as viable alternatives for the Congress and for the President to make programmatic decisions on when the appropriate time comes.

These programs should certainly include, in my view, developing still further cost effective and still further efficient ways to reach space and to operate in space.

The capability to do that may lie in the direction of eventual booster development and spacecraft development. One very exciting prospect that is now in the embryonic stage is the development of a booster capability, a space launcher which takes advantage of the fact that it has to traverse the atmosphere before it reaches space.

As you know, Senator Gorton, since the Chinese invented the rocket, its principle has been to take all of its propellants, including its oxidizer, and package them together and then carry them to its eventual destination, but, of course, the atmosphere is full of oxygen, and if we could develop a rocket engine or more appropriately a RAM-jet engine or engine of that type, which can use the oxygen on the way to orbit, it can be a vastly lighter and vastly more efficient propellant system than the ones we are forced to use now.

That program is one of great technical potential and, I believe, very exciting. It certainly should be pursued over the next decade.

Senator **Gorton**. Dr. Graham, can the goals which you envision for NASA be met with an appropriation that represents approximately the present day share of the gross national product growing only to match the growth in the economy itself? Or do you feel that in the course of the next decade we are going to have to give a greater priority to NASA and its programs than to a wide variety of other spending programs in the country or, alternatively, find new sources of revenues from which to support it if we are to reach these goals?

Dr. **Graham**. Senator Gorton, I believe that the future of the space program should be controlled by the technological and scientific potential that NASA and other agencies are able to put forward to the Congress and to the President. It should also be controlled by the fiscal environment in which we will live at that time, and it should also be controlled by immediate commercial return that the country is receiving from space.

All three of these factors will have to be weighed carefully by the Congress, providing the funding for the space program. It is clear that we are now in an era of great fiscal restraint, and every dollar that NASA spends must be viewed as an investment that the country is making in its future, an investment which we should ensure returns itself manyfold as we go into the exploration of space and the exploitation of space in commercial and other ventures.

I believe that it will be a balance of these factors that will determine the size of the NASA budget. I hope that NASA will always live in an environment which is so rich in ideas that there are things that NASA would like to do that it will not be able to do, and at the same time I hope and believe that the Congress will provide adequate support for the best ideas that come from the Space Program, and for the best use of space in terms of commercial and other exploitation.

Senator **Gorton**. Dr. Graham, I want to thank you for your candid answers, and for your candidacy for this position, for which I think you are very well suited. As you know, we have another extensive hearing before us here today. I have a number of pages of questions which we will submit to you in writing, to which we would ask your written answers. The minority on the committee also has written questions which we will submit to you.

We will ask that you work hard on those answers, and get them to us as quickly as possible, so that we can proceed with your confirmation as quickly as possible and get you to work, which I am convinced we are going to do, because you are highly qualified for the position.

Thank you very much.

Dr. GRAHAM. Thank you very much, Mr. Chairman.

Senator GORTON. This hearing is adjourned.

[Whereupon, at 10 a.m., the subcommittee was adjourned, to reconvene upon the call of the chair.]

[The following information was subsequently received for the record:]

POST-HEARING QUESTIONS OF SENATOR GORTON AND THE ANSWERS

SPACE STATION

Questions 1 and 2. It is expected that NASA's Space Station request may increase from approximately $200 million in FY 1986 to approximately $500 million to $600 million for FY 1987. This FY 1987 request is expected to bring with it the decision to initiate actual development in FY 1987. In your opinion, how critical is it that NASA initiate Space Station development in FY 1987? Along these same lines, a question that may be asked with increasing frequency during next year's budget process is, "How critical is it that NASA attain the initial operating capability of the Space Station by 1993 or 1994?" Can you answer this question for us?

Answers 1 and 2. Initiating development of the Space Station in FY 1987 is important to our achieving initial Space Station operations "within the decade" as proposed by President Reagan in January, 1984. The United States undertook the Space Station effort to support the national policy of preserving the role of the United States as a leader in space sciences and technology and in their applications to peaceful space-related activities. Stretching out the Space Station program schedule could result in possible total program cost increases and in the possible loss of momentum in the drive for continuing U.S. space leadership.

SPACE STATION/INTERNATIONAL COOPERATION

Question 3. Continuing our discussion on the Space Station, international cooperation is becoming an increasingly complex issue, one that raises quite a number of questions, one of which relates to technology transfer. Our potential Space Station partners, ESA in particular, have been emphatic about participating in the program as equal partners; for instance, having equal access to all elements of the Space Station. How do we balance our national technology transfer interests with those of our geopolitical interests?

Answer 3. To enlist the cooperation of our allies is one of the prime goals of the Space Station program. It is both a symbol of cohesion of the western alliance and tangible evidence of the willingness of all participants to pursue jointly the unique adventure of developing the use of space for humankind.

As with all major national-level pursuits, the international cooperation on the Space Station must be accommodated within the constraints imposed by other national goals. The control of technology transfer to foreign nations is one of the important considerations in the definition of the Space Station program.

The NASA Space Station program is so structured that the control of technology transfer is assured in keeping with all the prevailing laws, regulations, and mandates of national security decision directives. The specific memoranda of understanding (MOU's) and eventually the binding contractual instruments do now, and will in the future, receive the concurrence of the Department of State and the Department of Defense.

All current and prospective participants are signatories of bilateral agreements with the United States that regulate the conditions of the transfer of technology and impose restrictions on the transfer to third parties. Any exchange of technical information incorporates these agreements by reference.

The Space Station core program basically provides for the structure, the means for access and egress, the communications, and the essential utilities. It is a U.S. program and does not require the transfer of advanced technologies that are protected under U.S. technology transfer control. The individual mission modules (which are part of U.S. or foreign national programs) require the definition of interfaces, but here again, transfer of critical, high-technology information is not contemplated.

Each nation, including the United States, is expected to conduct its scientific and technology development activities in an autonomous manner, subject to the interface constraints and the general safety and security of the Station. Exchange of technical information in regard to these activities is to be governed by bilateral or multilateral understandings that will take into full account the principles of reciprocity, respect of proprietary rights, and control of technology transfer.

SPACE STATION/COMMERCIALIZATION

Question 4. Following this theme of international cooperation and competition, a race has begun for the potential market that space commercialization offers. How can we establish and maintain a strong competitive position in this future market, particularly with respect to the commercial use of limited Space Station facilities, while at the same time, maintaining a meaningful, cooperative relationship with our Space Station partners?

Answer 4. Utilizing the Space Station for commercial purposes while at the same time cooperating with the allies on the Space Station program is essential. The Space Station offers an opportunity to further involve the private sector in space, through provision of operational services, research capabilities, and possibly production facilities. NASA does and will continue to encourage both U.S. and foreign commercial firms to bring their ingenuity, technical expertise and venture capital to bear on the problems of space-based research, development and industrial activity.

The key to solving the problems of simultaneous cooperation and potential competitive aspects of the R&D conducted in the Space Station is in the explicit distinction between the several roles played by NASA, in the careful separation of the physical facilities associated with proprietary activities and in the reciprocity of contributions and benefits involved in information exchanges among the participants.

NASA's role is, first, that of a host and an architect, aimed at ensuring that all participants have the proper access to, and privacy in the use of, the facilities and support required by their proposed activities. Second, NASA should serve as a repository and clearing house for scientific information and applied technology the participants elect to contribute, so that such benefits of space R&D are distributed to all. Alternatively, NASA provides or supports, upon the owner's request, the mechanisms for protection of proprietary rights. Thirdly, technology developed by NASA or by its U.S. contractor-participants will be protected according to the appropriate regulations governing technology transfer.

I firmly believe that the advantages of early international participation in the Space Station activities far outweigh the risks of loss of proprietary information. NASA's preferential support of U.S. private firms will not dampen the enthusiasm of foreign participants, who fully expect and receive similar support from their respective governments.

SPACE STATION/DEPARTMENT OF DEFENSE (DOD)

Question 5. As you may know, this Committee has included language in its last two NASA authorization bills which, in effect, directs NASA to ensure that the Space Station is used only for peaceful purposes. The intent of this language, however, is not to preclude R&D activities by the Department of Defense on the Space Station. In your opinion, to what extent should DOD be allowed to use the Space Station, and for what types of activities?

Answer 5. The Space Station will be a national asset consistent with the Nation's Space Policy as it has been developed by Congress and the President. I believe it is quite premature to try to forecast hypothetical R&D uses of the Space Station by DOD. If and when the DOD brings forth a research and development program that requires the use of the Space Station, NASA and the DOD will jointly define the corresponding activities under the guidance of Congressional directives and the President's National Space Policy and in keeping with the peaceful goals of the Space Station mandated by the Congress and the President.

Question 6. The Department of Defense has committed to fly a number of SDI experiments aboard the shuttle over the next several years. One would logically anticipate that DOD will eventually propose using the Space Station for some types of SDI research. With the growing perception that the United States is trying to militarize space, how can we maintain the perception and reality that the Space Station is a civil facility, as it has been defined, and is not part of some larger plan to militarize space?

Answer 6. The National Aeronautics and Space Act of 1958, as amended, states that "The Congress hereby declares that it is the policy of the United States that space should be devoted to peaceful purposes for the benefit of all mankind." The Act also mandates ". . . that activities peculiar to or primarily associated with the development of weapon systems, military operations, or the defense of the United States (including the research and development necessary to make effective provision for the defense of the United States) shall be the responsibility of, and shall be directed by, the Department of Defense . . ." As these statements imply, there is no inherent contradiction between the use of space for peaceful purposes and the use of space for U.S. military purposes that support and promote peace.

Space has been used for military purposes since at least the latter days of World War II, and military use of space by the Soviet Union, the United States, and other countries will in all probability continue for the foreseeable future.

The civil Space Station program, which is under NASA management, has to date received no requests for use by the Department of Defense. In addition, both the 1967 "Treaty on Principles Governing the Activities in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies" and Space Act prohibit the use of the Space Station to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any manner. As manager for the Space Station, it is NASA's responsibility to see that this is observed.

FIFTH ORBITER

Question 7. The debate over whether or not we need a fifth orbiter has lasted for three or four years. What are your views on this issue and on the means by which we should meet our future Space Transportation System requirements?

Answer 7. A study jointly chaired by NASA and the Air Force is currently in the process of defining the future Space Transportation System launch requirements and launch vehicle concepts, and identifying possible technology to accommodate these requirements. Research to support advanced technology transportation systems is underway now and should be continued. The timing of the development of such systems should be a function of the requirements, the return on investment, and future experience with the existing Space Transportation System.

SHUTTLE OPERATIONS

Question 8. Concerning our Space Transportation System, the idea of "fencing off" shuttle operations or transferring the shuttle to a commercial entity has been discussed from time to time.

a. What are your thoughts on "fencing off" shuttle operations or "commercializing" the shuttle?

b. Do you think that since NASA has had to commit such a large portion of its annual budget over the last decade to the Shuttle Program that it has evolved away from its true mission as an R&D Agency?

c. How do you think that NASA can keep this from happening during the development and operation of the Space Station?

Answer 8. a. Fencing off shuttle-related budgets means that once these budgets are approved, NASA cannot use the corresponding funds for other purposes. In substance, this is the situation now, with Congressional authorization and appropriation legislation being tied to individual major spending categories. There appears to be little advantage to introducing additional restrictions. I would like to be acquainted in more depth with the arguments in favor of "fencing-off" before offering a definitive opinion on the subject.

"Commercialization" or "privatization" of the shuttle is contingent upon the answer to the question of whether or not it is possible and desirable to transfer operations of the existing shuttles to some commercial or private entity.

It is possible that apparent cost savings could be achieved by segregating the shuttle operations and by transferring them to a commercially oriented separate entity. However, to date intra-Governmental studies have shown that such a transfer would not in fact reduce costs when all the implications are taken into account, and that the potential for civil and particularly military operational problems is high.

The issue of the commercialization or privatization of space shuttle operations should be revisited periodically to determine if present circumstances have changed substantially.

b. While NASA has had to commit a substantial portion of its annual budget to the shuttle program, the shuttle itself has been an R&D effort. In addition, a larger percentage of missions that fly on the shuttle are R&D activities of NASA and other agencies, and, as such, the NASA support to these missions is a bona fide R&D role.

The overall R&D budget and the Science and Applications budget have increased in the last several years. NASA has and will continue to be, I believe, an R&D Agency at the leading edge of technology. I will work to ensure that NASA continues to have a balanced program which will keep this Nation's leadership not only in space transportation, but also in space science and technology and in aeronautics as well.

c. One of the primary purposes of the Space Station is to enhance and promote space science. In the development of a large national program such as the space shuttle or the Space Station, a significant portion of the NASA budget is required to support development and initial operation. R&D-associated activities have received significant benefits from such programs, and it is only with this type of substantial front-end investment that the United States can maintain its leadership role in space.

NEW STARTS FOR NASA'S SPACE SCIENCE AND APPLICATIONS

Question 9. As you may know, the Administration proposed no new starts for NASA's Space Science and Applications budget for FY 1986. This has created a long queue of Space Science and Applications programs, most of which are the outstanding program in their respective disciplines, that are awaiting a new start during the next couple of years.

How can NASA maintain continuity and momentum in these programs, when many of them have been delayed for several years awaiting a new start approval?

Answer 9. A short hiatus in new starts in Space Science and Applications will not have a significant impact on the continuity and momentum for planned programs. Several years of delay in new starts, however, could have a more serious impact.

I think it is important to note that recommendations for Space Science and Applications potential missions are the result of careful study by the various NASA Advisory Committees and inputs from the academic and scientific communities. These recommendations are combined to produce a balanced program to achieve the goals established, and to provide for the future scientific capability required for the Nation to continue as a leader in the exploration and understanding of the universe. Advanced planning, preparatory research and technology development for these potential missions should be able to maintain the necessary momentum for the short term.

Question 10. Another issue of importance to the space science community is the deteriorating condition of our university space science infrastructure, such as university laboratories and research equipment. Do you see this as a problem, and do you think that NASA has made a good faith effort to address these concerns of the space science community?

Answer 10. The issue of maintaining first-class laboratory research equipment is an important one, and it is my understanding that NASA, in concert with Governmental and private organizations, is addressing it. While there is no explicit provision in the budget for updating university laboratories and equipment, one of the important functions of the R&D program is to support university research groups in a manner that includes provisions for research equipment. NASA informs me that historically, approximately 10 percent of the R&D funding to universities has been used in this area.

Question 11. The competitive edge of the United States in the world market of aeronautical technology and sales has narrowed considerably over the past several years. What can NASA do to re-establish a more competitive margin in these markets?

Answer 11. While technological leadership by itself will not guarantee U.S. preeminence, the absence of it will certainly contribute to the loss of such preeminence. To maintain U.S. leadership, NASA must conduct an aggressive long-range research and advanced technology program that concentrates on emerging technologies that promise very substantial gains and focuses on key opportunities that are beyond the reach of the private sector. In aeronautics, NASA plays a unique, central role in providing a timely, proven, broad technology base for industrial application. Such a role continues to hold the great promise for enhancing U.S. leadership in the world market. Innovation and development by the industry stemming from an enhanced base of new technology can provide technical leadership, potentially offsetting some of the non-technological advantages foreign manufacturers enjoy. It is my hope that NASA will continue and further develop its role in the field of aeronautics.

Question 12. With this thought in mind, do you think that over the past several years NASA's aeronautical R&D budget, which is now approximately $350 million, has reflected an appropriate level of priority within the Agency?

Answer 12. It is my understanding that the aeronautics program has remained strong and productive over the past several years. The program continues to focus on high-payoff research and technology activities that are long-range and high-risk in nature. Today, the opportunities for technological advancement in aeronautics appears to be as great or greater than at any time in the past.

Technology advances in areas such as turboprop engines, composite structures, multi-disciplinary technology integration, numerical aerodynamic simulation and advanced vehicle concepts offer the technological potential for the United States to supersede all currently operational aircraft by the year 2000. The reports of the Aeronautical Policy Review Committee further clarify and focus the possible directions for U.S. aeronautics research and technology. I believe that one of the exciting challenges facing the country will be to maintain a strong capability in aeronautics and to exploit the technological potential of aeronautics in the future.

Question 13. This spring the President's Science Advisor released a report that proposed national R&D goals for aeronautics. These goals addressed, generally, subsonic aviation, supersonic cruise capabilities, and transatmospheric or hypersonic capabilities. Do you think that NASA's aeronautical R&D budget can adequately support the Agency's contribution toward achieving these goals without de-emphasizing its ongoing aeronautical R&D effort? If not, how large an increase should NASA's aeronautical R&D budget expect to help meet these goals?

Answer 13. The national aeronautical goals recommended by the Aeronautical Policy Review Committee and released by Dr. Keyworth clearly represent a challenge to the entire aeronautics community and require both public and private sectors to engage in a national effort if they are to be achieved. One purpose of that Committee was to recommend priorities and focus the direction for U.S.aeronautical R&D in key, high-leverage areas that will sustain U.S. leadership into the next century. This kind of R&D in aeronautics has been highly successful throughout the history of aviation, and is one of the reasons for our position of world leadership.

The importance of maintaining a broad research and technology base, which will enable a broad range of aeronautical advances, is manifest. NASA is pursuing emerging technologies in the ciritical disciplines which support the development of data and methodology required for a broad range of future aircraft designs. NASA is also working closely with industry and the DOD to develop cooperative programs in support of the proposed national R&D goals. This is aimed at accelerating progress by leveraging NASA's research dollars. If confirmed as Deputy Administrator, I will work to assure that NASA's ongoing aeronautical R&D goals; however, I would like to review the current and planned programs in detail before I comment on the implications of specific budget levels.

Question 14. There is growing attention being given to the development of a hypersonic single stage-to-orbit vehicle that could achieve Mach numbers of 8 to 12, after taking off from a conventional aircraft runway.

a. What roles do you see such a vehicle playing our Nation's aeronautical and space activities, both civil and military?

b. Should NASA and the Nation take on this project with the same level of commitment as the Nation did for the X-1 and X-15 aircraft?

Answer 14. a. Earlier this year, NASA and the Department of Defense jointly undertook a study to define the next generation space transportation system. One important objective of this study is to assess the appropriate role that a single stage-to-orbit vehicle should play in our Nation's future space transportation system. Such vehicle could conceivably play important roles in several future aeronautical and space activities, but I believe that it is too early to define those roles with any degree of certainty.

b. Hypersonic air-breathing propulsion offers the potential for large payoffs for a variety of missions and application. Pursuit of a flight research program similar to the X-1 and X-15 aircraft may prove to be a viable approach to demonstrate the technology and gain flight data on hypersonic flight. The United States should certainly consider such a flight research program with NASA playing a leadership role in technology development and demonstration. The specific structure of future programs aimed at engineering developments is being addressed in currently ongoing NASA-DOD studies.

COMMERCIALIZATION

Question 15. To assist the private sector in the commercialization of space, NASA has initiated over the past two years a number of actions such as the establishment of Centers for the Commercial Develpment of space and the provision of free shuttle flights for companies that invest in new, innovative space activities that have commercial potential. How would you describe NASA's role in space commercialization—is NASA aggressively promoting this new industry in an appropriate manner, or could it be doing more?

In what other ways could NASA appropriately promote space commercialization?

Answer 15. There is a distinct role for NASA in the space commercialization process. First, and foremost, NASA has developed the basic space flight transportation capability in the form of the space shuttle—a capability unlikely to have been initiated by the private sector. While the space shuttle has demonstrated its commercial satellite launch capability from low earth orbit, many of its other capabilities which can potentially contribute to commercial initiatives remain to be exploited.

In general, NASA's role in space commercialization can be thought of as follows:

Development of Unique Capabilities. The space shuttle, its derivatives, and a Space Station are not only multi-user facilities but also are very large investments carrying some risk and having unusually long payback periods, placing them beyond the normal financial capability of the private sector. Such facilities should be viewed as national resources which, although developed by the Government, provide research and operational capabilities that can be employed by the private sector to produce national economic benefit. The use of these facilities by the private sector is encouraged by NASA.

Using Industry Capabilities. The NASA policy of acquiring and operating its facilities, equipment, and technical services through industrial contractors has built an industrial competence for supporting new initiatives and exploiting space technology in the private sector.

Research and Development for Space Applications. The NASA space applications program is directed to the productive use of space technology and the space environment. NASA, working closely with industry, encourages new initiatives in the application of space technology. An example of one such area is material processing in space, which appears to have a large potential for commercialization.

Protecting Intellectual Property in Space Activities. NASA negotiates in selected instances special clauses dealing with inventions and technical data. These provide that as long as the industrial party engaged in the joint endeavor continues to pursue the experiment, that party would retain all rights to inventions and proprietary technical data. The only exception is if the NASA Administrator, in response to a national emergency, determines that an invention made in the performance of the joint endeavor is urgently needed for public health reasons.

Risk Reduction. The NASA ongoing research and technology development activities reduce the business risk of high technology space enterprises. Further encouragement for the private sector is warranted, however, because of the high cost of space endeavors, and particularly the cost of space transportation. This cost factor has been recognized by NASA in the development of its Joint Endeavor Agreements which allow use of shuttle capability, on a non-reimbursed basis, during the research phase of a commercial activity.

Develoent of Scientific and Technical Manpower. The successful conduct of the high technology activities inherent in the space program is wholly dependent of the availability of scientific and technical personnel. This dependency, with respect to NASA personnel, was recognized in drafting provisions for the National Aeronautics and Space Act of 1958. NASA should continue to support the development of highly skilled scientific and technical manpower that is needed for commercial space technology. The recently selected Centers for the Commercial Development of space will undoubtedly contribute to developing a cadre of such individuals.

PRIORITIZATION OF FLIGHT OPPORTUNITIES

Question 16. Within the past year, two reports that discuss shuttle flight opportunities have been issued by committees that are internal to NASA. One report concluded that NASA was not providing adequate shuttle flight opportunities for the smaller space science experiments and projects, and the other report concluded that NASA was not providing adequate shuttle flight opportunities for the microgravity research experiment which are critical to the success of some space commercialization activities. Do you think that NASA has properly prioritized its shuttle flight opportunities for these space science and microgravity science payloads? If not, what can be done to remedy this problem?

Answer 16. I am informed by NASA that a shuttle manifest backlog buildup recently has affected the scheduling of several small space science and microgravity experiments. This has been brought about by several factors, including (1) growth of the primary shuttle payloads; (2) commercial retrieval and salvage requirements; and (3) center-of-gravity, performance, and orbiter payload constraints. These same factors have also contributed to the delay of some of the microgravity payloads in the cargo bay, such as the Materials Science Laboratory.

However, despite these factors, many payloads have flown including: Monodisperse Latex Reactor—5 flights; Materials Experiment Assembly—2 flights; Continuous Flow Electrophoresis System—5 flights; Acoustic Containerless Experiment System; Isolectric Focusing Experiment; Aurora Photography Experiment; Automatic Directional Solidification Furance; Diffusive Mixing of Organic Solutions; and the Physical Vapor Transport of Organic Solids. In addition, many other small science and microgravity experiments have been flown as part of the dedicated Spacelab missions.

It is my understanding that upcoming flights will include the Materials Science Laboratory in December of this year and at least twice next year; the Electrophoresis Operation in Space; and additional flights of other space science experiments.

POST-HEARING QUESTIONS OF THE MINORITY AND THE ANSWERS

DR. GRAHAM'S PROFESSIONAL BACKGROUND

Question 1. Despite your outstanding academic credentials, your background does not manifest significant involvement with the civilian space program.

While at RAND and R&D Associates, what civilian space activities, if any, were you involved with? Did you perform any services for NASA or any major aerospace firm that were directly related to the civilian space program? Please provide the Committee with a list of any such activities and the dollar value of the contract.

To what extent have you dealt with NASA during your professional career, and how does this prepare you for the position of Deputy Administrator of NASA?

Answer 1. Several of the areas of advanced technology that I have worked on or supervised at RAND and R&D Associates are applicable to civilian space efforts. These areas include: Spacecraft system design and testing, booster analysis and design activities, guidance system analysis and design, advance communications systems research and development, aircraft avionics and design, research on properties of the upper atmosphere, and use of satellites for remote sensing.

The Division of R&D Associates that I managed from 1973 through 1977 had directly under my supervision at different times several NASA activities. In the period 1973–1977 inclusive, that work was supported by some 6 contracts totaling $333,000. Since 1978, R&D Associates has worked on an additional 4 NASA contracts totaling $512,000. In addition, I have informally worked with NASA personnel on a variety of technical matters, such as the implementation and use of large computer systems.

More generally, the advanced technology work that I have performed and managed under contract for several agencies of the Government, including NASA, have much in common, along with some unique aspects. I look forward to drawing upon these unique aspects which I believe will lead to a cross-fertilization of ideas and innovation within NASA.

Question 2. Could you please give the Committee a more detailed description of the activities you were involved with while at RAND and R&D Associates? And, a rough idea of what percent of your time was dedicated to each of these activities?

How many people, if any, did you oversee while at RAND and R&D Associates? Do you feel you have the necessary management skills and background to capably perform the duties of Deputy Administrator of NASA?

Answer 2. While at RAND and R&D Associates, my technical activities included the following:

Worked on strategic missile and aircraft system survivability and conseptual design (approximately 25 percent of technical activity);

Performed research on the effects of nuclear weapons and their interaction with protected military systems, including both strategic and communication systems (approximately 25 percent);

Designed nuclear weapon effects simulators, including the large scale ALEX high-altitude EMP Simulator at the Air Force Weapons Laboratory (approximately 20 percent);

Designed system survivability tests (approximately 10 percent), and

Conducted research into the analytical capabilities and prospects for scientific supercomputers (approximately 10 percent).

At RAND, I directly oversaw 1-2 programmers and 1-2 other members of the technical staff.

In addition to the technical activities mentioned above, at R&D Associates, I have been involved in company-wide management since the inception of the Company in the following capacities: Director of Computer Operations, Division Manager, Corporate Program Manager, President's Staff.

At R&D Associates, I have been the manager of approximately 50 professionals, one half of whom held PhD degrees in technical areas, with the rest holding masters or bachelor degrees. As a member of the RDA President's staff, I conducted high-level programmatic oversight for company of some 500 persons, many of whom are recognized as world leaders in their technical fields.

I believe my strong and creative management skills and background will serve me well in performing the duties of Deputy Administrator of NASA.

ROLE OF DEPUTY ADMINISTRATOR

Question 3. It has been quite some time since NASA has had a Deputy Administrator—nearly 18 months.

Whatrole will you play at NASA and in what areas will you focus your time and attention on? Have you and Administrator Beggs met and discussed your role and responsibilities?

What new or interesting insights do you bring to NASA; and if you were "Administrator for a Day," what policy changes would you implement at NASA?

In accepting the job of Deputy Administrator at NASA, did you establish any conditions concerning the Administrator's position if for any reason it became available?

Answer 3. The 1958 Space Act, as amended, stipulates that the Deputy Administrator shall execute those duties and responsibilities designated by the Administrator. Until my nomination is confirmed by the Senate, I believe it would be premature to pursue detailed organizational issues with the Administrator.

I admire and respect Administrator Beggs, and if "Administrator for a Day" would not presume to change his implementation of the U.S. National Space Policy that has been formulated by the President and Congress.

I accepted the President's nomination to be the Deputy Administrator of NASA without conditions.

BUDGETARY FUTURE OF NASA

Question 4. The budget battle is gaining steam on Capitol Hill, and it looks like some of the early winners, including NASA, will not fare as well in FY 1986 as some persons had thought. Realizing next year is an election year, one might speculate that FY 1987 also will see severely constrained budgets.

In light of this situation, what does the budgetary future look like for NASA? And other R&D intensive areas? Can NASA absorb budget reductions, and where should these cuts occur? What effect, if any, will future budget cuts have on major new initiatives, such as the Space Station Program?

Answer 4. Although I expect NASA to support the current efforts to meet the President's deficit reduction goals, I believe that the Administration intends to continue its support for a strong and aggressive aeronautics and space program. The effect budget reductions will have on specific programs, such as Space Station, will depend on the level of the reductions. It is important to the vitality of our leadership in space and aeronautics that the United States continue to pursue new programs that will exploit and enhance our national capabilities.

COMMERCIAL USE OF SPACE

Question 5. Much attention is given to the principle of the Commercialization of Space by the White House. When will specific legislative proposals encompassing the economic incentive outline in the White House Commerical Space Policy be submitted to the Congress?

Answer 5. I support the policy of the President to encourage private investment and participation in space enterprises. These enterprises are likely to lead to technical innovations and to support American competitiveness in global markets.

NASA has taken several steps to facilitate the commercial use of space. It has formed the Office of Commercial Programs to provide a focal point for activities that encourage private investment in commercial space ventures. It is making a substantial effort to establish close working relations with the private sector and academia to encourage space technology use. Private sector space activities are facilitate through access to Government capabilities such as the Space Transportation System. NASA is also exploring ways to promote commercial participation in the Space Station, both in the infrastructure development and in the eventual use of that facility.

Existing legislation already encompasses several of the economic incentives outlined in the White House Commercial Space Policy. Any additional legislative proposals required will be made when deemed necessary by the President.

CONCERN OVER MILITARIZATION OF NASA

Question 6. If one looks at your resume, it is quite clear that your expertise is arms control and disarmament. As a matter of fact, you are Chairman of the President's General Advisory Committee on Arms Control and Disarmament, and you were a member of the President's Defense Transition Team.

Could you please allay any fears that I might have, or other Members, that your appointment represents "the militarization of NASA."

Also, could you please inform the Committee as to whether or not you have resigned your position as Chairman of the President's General Advisory Committee on Arms Control and Disarmament? And could the Committee have a copy of that letter for its record?

Answer 6. If confirmed, I would fufill the duties of the Deputy Administrator of NASA as defined by the National Space Act of 1958 and would endeavor to implement the President's National Space Program. In my current capacity as Chairman of the President's General Advisory Committee on Arms Control and Disarmament, I was repeatedly led to consider all the political, scientific, and economic factors that contribute to national security, in addition to the purely military aspects. I believe that this experience, coupled with my extensive background in science, engineering, and management, should be a strong asset in fulfilling the duties of the Deputy Administrator of NASA, and specifically in maintaining the complementary relationship between NASA's scientific, commercial, diplomatic, and national security-related goals.

While it has been an honor to serve the President in my current role, upon confirmation, I shall, of course, resign as Chairman of the President's General Advisory Committee on Arms Control and Disarmament. At that time, I will submit to the Committee a copy of my letter of resignation for the record. I look forward to serving the President and to working with Congress in a new capacity as the Nation seeks to maintain its leadership in space.

General Advisory Committee on
Arms Control and Disarmament,
Washington, DC, November 25, 1985.

Hon. Ronald Reagan,
The White House.

Dear Mr. President: It has been a great honor and privilege to have served you as Chairman of your General Advisory Committee on Arms Control and Disarmament. Your leadership has brought a greater sense of realism and integrity to the arms control process, and has forged a solid consensus in America for strengthening our defenses.

I look forward with great enthusiasm to serving you as the Deputy Administrator of the National Aeronautics and Space Administration. The United States faces many challenges to its world leadership in space, and I am deeply honored to have been chosen by you to take up those challenges. To that end, I respectfully submit my resignation as Chairman of the General Advisory Committee on Arms Control and Disarmament.

Very respectfully yours,

William P. Graham,
Chairman.

ROBERT ELSNER AND KAREN W. PRYOR, TO BE MEMBERS, MARINE MAMMAL COMMISSION

WEDNESDAY, OCTOBER 9, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room SR-253, Russell Senate Office Building, Hon. Ted Stevens presiding.

Staff members assigned to this hearing: Macky Ayers, professional staff member; Bob Eisenbud, staff counsel; and Jim Drewry, minority staff counsel.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. This is the time set for the hearing on Dr. Elsner and Mrs. Pryor to become members of the Marine Mammal Commission. If we could have those two people come forward, I understand that Senator Gorton is on his way.

Let me introduce for the record a longtime Alaskan, Robert Elsner. Bob has been nominated by the President to fill a vacancy on the Marine Mammal Commission. He is currently a professor of marine science at the University of Alaska, and has been involved in the scientific investigation of the Arctic Ocean region and its living marine resources for over 30 years.

Bob is also credited with a long list of scientific publications dealing with Arctic marine mammal research. Marine mammals are, as we all know, very important to the Arctic ecosystem. Our Alaskan natives have had a 2000-year history of dependence upon marine mammals for survival. It is essential that Alaska has a representative on the Marine Mammal Commission.

It can be an important factor in the human aspect of marine mammal conservation and research, and I am pleased, Bob, that you have been willing to accept the President's nomination to become a member of the Marine Mammal Commission. We will put your biography in the record.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF ROBERT ELSNER

Born: 3 June 1920; Boston, MA.

Education: New York University, B.A., 1950; University of Washington, M.S., 1955; University of Washington, Ph.D., 1959.

Experience: Meteorological Observer, U.S. Weather Bureau, Mt. Washington Observatory, New Hampshire, 1941-1942; American Field Service, attached British Eighth and Ninth Armies, Middle East, Africa, Italy, 1942-1944; Technician, Sloan-Kettering Institute for Cancer Research, New York, 1946-1948; Research Assistant, Dept. of Pharmacology, Cornell University College of Medicine, 1948-1950; Research

Physiologist, USAF Arctic Aeromedical Laboratory, Alaska, 1953-1956; Research Associate, Dept. of Physiology and Biophysics, University of Washington, 1956-1959; Visiting Scientist, Instituto de Biologia Andina Peru, 1959-1961; Assistant Research Physiologist, Scripps Institution of Oceanography, University of California, San Diego, 1961-1963; Associate Research Physiologist, Physiological Research Laboratory, Scripps Institution of Oceanography, 1963-1970; Co-founder of Comparative Cardiovascular Facility, UCSD, 1965; U.S. Public Health Service, National Institutes of Health Research Career Development Award, 1965-1970; Visiting Scientist, Dept. of Human Physiology and Pharmacology, University of Adelaide, South Australia, 1969-1970; Associate Professor of Physiology, Scripps Institution of Oceanography and Dept. of Pediatrics, University of California, San Diego, 1970-1973; Distinguished Lecturer, University of Hawaii, 1971; Member, Panel on Biological and Medical Sciences, Committee on Polar Research, National Academy of Sciences—National Research Council, 1971-1974; Professor of Marine Science, Institute of Marine Science, University of Alaska, Fairbanks, Alaska, 1973- , Institute of Arctic Biology, 1975- ; U.S. Delegation, US-USSR Marine Mammal Project, 1973- , Chairman, US Steering Committee, 1975-1977; Polar research vessel design, 1976-1983; Visiting Scientist, St. Bartholomew's Hospital College of Medicine, London, 1980; Visting Lecturer, oceanographic institutions, People's Republic of China, 1980; Member, North Slope Borough, Alaska, Science Advisory Committee, 1980-1984; Editorial Board, *Marine Mammal Science,* 1984- ; U.S. Marine Mammal Commissioner, 1984- .

Senator STEVENS. Senator Gorton, do you have a statement?

OPENING STATEMENT BY SENATOR GORTON

Senator GORTON. Thank you, Mr. Chairman. I am particularly pleased to have the opportunity to introduce a Washington State resident from the town of North Bend, Karen Pryor, as one of the nominees for Marine Mammal Commission. Ms. Pryor has already demonstrated to this committee her skills and the capabilities for serving as a member of the Commission.

Since December of last year, the Commission has had the benefit of serving as a recess appointee. Ms. Pryor's qualifications further demonstrate how well suited she is to serve as a member of the Marine Mammal Commission. She has worked for many years in Hawaii doing extensive research on dolphin and porpoise behavior.

She has been a consultant on a scientific advisory to such prestigious organizations as the National Science Foundation, NASA, the National Marine Fisheries Service, and the National Geographic Society. Her publication credits are both numerous and impressive, and indicate her thoughtfulness and commitment to the issues surrounding the protection of marine mammals.

I trust, Mr. Chairman, that you and all of our colleagues on the committee will find her to be as qualified as I do to serve as a member of the Marine Mammal Commission.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF KAREN W. PRYOR

Address: 44508 151 Street, South East, North Bend, Washington, 98045.

Born May 14, 1932, New York City, NY.

Married to Jon Morrow Lindbergh, May 14, 1983

Children: Tedmund Wylie Pryor, 29; Michael Allderdice Pryor, 27; Gale Taylor Pryor, 24.

Education: Cornell University, 1949-1954, Bachelor of Arts; University of Hawaii, 1957-1959, graduate work in marine zoology; New York University, 1977-1979, graduate work in biology; Rutgers University, 1980-1982, graduate work in behavioral ecology.

Employment record: Curator and head trainer, Sea Life Park, Waimanalo, HI, 1963-1972; Exhibit design and film production, Sea Life Park, Waimanalo, HI, 1965-1972; public relations, Sea Life Park, Waimanalo, HI, 1964-1972; dolphin researcher

Oceanic Institute, Waimanalo, HI, 1964-1972; consultant on oceanarium design, Hong Kong Jockey Club, Hong Kong, 1971; drama critic, Honolulu Advertiser, Honolulu, HI, 1972-1975; copy writer, Fawcett McDermott Cavanagh, Honolulu, HI, 1974-1976; scientific advisor, Porpoise Rescue Foundation, United States Tuna Foundation, Washington, DC, San Diego, CA, 1976-1982; consultant, National Geographic Society Washington, DC, 1968-present; freelance writer and lecturer, Harper & Row, Simon & Schuster, Readers Digest, New York Magazine, Psychology Today and others, 1960-present.

Government experience: Volunteer staff member, Hawaii State Senator (Dem) Taylor A. Pryor, 1965-1966 (approx.); Office of Naval Research principle investigator, dolphin behavioral studies, 1966, 1967; proposal reviewer, National Science Foundation, 1978-present; sole-source contractor and principle investigator, National Marine Fisheries Service, to study behavior of porpoises in the nets in the purse-seine tuna fishery, 1978-1980; consultant to NASA on design of dolphin at-sea research equipment, 1979; consultant to National Zoological Park, on reinforcement training as an animal management tool, 1980.

Senator **STEVENS**. Let me ask just a couple of questions of you, Dr. Elsner. Have you been involved in the activities of the International Whaling Commission in the past?

STATEMENT OF ROBERT ELSNER

Mr. **ELSNER**. Yes, this past June I was a delegate to the meeting of the scientific committee at Bournmouth. That was my first opportunity to attend an IWC meeting.

Senator **STEVENS**. Do you generally support the work that the Alaska Eskimo Whaling Commission has been doing with regard to the International Whaling Commission?

Mr. **ELSNER**. Yes, I do, indeed. It seems to me it is very gratifying to find that the native people in the State of Alaska have taken such a firm and controlling role.

Senator **STEVENS**. Do you have any particular goals that you want to pursue as a member of the Marine Mammal Commission?

Mr. **ELSNER**. There are several matters that are of great interest to me. Probably at the top of my own list is the possibilities that we have to improve our capability for doing studies in the north. There are several deficiencies in our capability. For example, in terms of research facilities, on adequate ship, and other such things of that sort.

I would like to see everything that we could possibly do to improve that situation, and I think there is another matter, too, which is of very great interest to me, and that is to improve the lines of communications between native peoples in Alaska and the State and Federal agencies that work with them in the management and conservation of marine ecosystem resources.

Senator **STEVENS**. In my judgment, there are still areas where marine mammals lack the protection they had before that moratorium, with the Federal Government not providing the fish and wildlife personnel for enforcement, and the State department of fish and game personnel being involved in enforcing State law rather than Federal law.

Have you ever done any work on the relationship of the current moratorium to the health and the status of the species that make up the marine mammals off of our Arctic coast?

Mr. **ELSNER**. Yes, sir. The State of Alaska had, I feel, a very good record in management of these resources in the years prior to the act, and as you know, there has been a considerable amount of deliberation about the possible return of management to the State. That issue is at the moment undecided pending the outcome of two major events as I understand them.

First, the results of the public discourse that has been taking place throughout the State of Alaska, and second the solving of the matter of subsistence, and these two issues are likely to find a resolution at some time within this next year.

Senator STEVENS. Well, I am delighted, as I said at the beginning, that you are willing to undertake this new appointment. We know of the work that you have done at the university, and we are delighted that you are willing to contribute to the Federal Government's ongoing investigation with regard to marine mammals. Your knowledge and expertise in the Arctic area will be invaluable, I feel.

[The statement follows:]

STATEMENT OF ROBERT ELSNER

Mr. Chairman, members of the Senate committee on commerce, Science, and Transportation, my name is Robert Elsner. I am a resident of Ester, near Fairbanks, Alaska. I am very pleased and honored to be considered for appointment as a Marine Mammal Commissioner. My position is professor or marine science at the University of Alaska. My active involvement in marine mammal affairs extends over 25 years, roughly half of that time at Scripps Institution of Oceanography, the balance in Alaska. My professional training was in physiology, and much of my career has been devoted to research into adaptations of marine mammals to the special demands of their environment. In my opinion the knowledge gained from such studies is essential for our understanding of those species, their interactions with other components of the marine ecosystem and, hence, their conservation and management. We are also finding that some aspects of marine mammal physiology have potentially important beneficial implications for human medicine.

I first lived in Alaska and began my acquaintance with its marine environment 32 years ago. Through the years I have become increasingly aware, just as you are, of the urgent need for the best possible understanding of the resources, as well as the vulnerabilities, of marine ecosystems. Wise decision-making affecting our own and future generations depends upon it. The marine mammal species comprise a highly visible, attractive and sensitive group of animals which cannot be dealt with in isolation from their enviroment.

I also recognize and appreciate our national role in worldwide involvement in oceanic affairs, especially as they relate to marine mammals. We have made progress on a global scale, as in the reduced active hunting of great whales. But more subtle and perhaps more devastating threats remain in the forms of habitat destruction, marine pollution, and competition for food resources. We are witnesses today, for example, of the plight of the few remaining West Indian manatee in Florida and of the Hawaiian monk seal, both of which species are endangered with extinction—and we are thereby threatened with the irretrievable loss of yet another genetic heritage and its contained secrets. Are we to do little more than to oversee the inevitable demise of species such as these?

Alaska is unusual in its abundance and diversity of marine mammal species. It is also the center of current and impending environmental and societal conflicts relating to those resources. Resolution of these conflicts will require our best knowledge and judgement. Some important deficiencies exist in both our knowledge and in our capacity to acquire new understanding of these problems. Complex and difficult as it is, that situation signifies, at the same time, a unique and compelling opportunity and promise for bringing order out of chaos, enlightenment out of ignorance.

I am aware that you appreciate and support a rational and comprehensive approach to these matters. It is my wish that, if confirmed, I may be able to assist in whatever capacity you may require to achieve the goals of intelligent marine conservation and management. Thank you for the opportunity to appear before you today.

Senator STEVENS. What has been your experience in research concerning marine mammals, Ms. Pryor?

STATEMENT OF KAREN W. PRYOR

Ms. Pryor. Mr. Chairman, I was trained as a biologist and a field naturalist and an environmentalist. My father was one of the early crusaders for saving the Everglades in Florida in the forties. I was a founder of Sea Life Park in Hawaii, which is a public oceanarium, and the Oceanic Institute back in the sixties, and I there became curator and head trainer of all the dolphins.

We had many animals over the years, many species which had not been kept in captivity elsewhere, and as a trainer I pioneered in working with trained animals in the open ocean and in research into learning and behavior. I did some of this for the Office of Naval Research.

I published quite a number of papers on learning and behavior during those years. In 1976, I left Hawaii, moved to New York, and this was the period in which the tuna porpoise situation was reaching its peak. I was familiar with the animals involved, which are not like Flipper—it is a different species of porpoise, the spotters and spinners, and we in Hawaii were the only people who had kept them and trained them. Therefore, I really could say quite a lot about how these animals were likely to behave and perform in the fishing situation, so I became a scientific advisor to the tuna industry on porpoises and also serving as liaison to the environmental and scientific communities.

During that period I also was a contract researcher for National Marine Fisheries Service, going to sea on the fishing boats and diving in the nets to study the behavior of the porpoises under water. As a porpoise expert, I have lectured widely and also continued my own studies from then to the present time, and I am still working as a researcher and writer in this field.

[The statement follows:]

Statement of Karen W. Pryor

Mr. Chairman, members of the Senate Committee on Commerce, Science, and Transportation:

My name is Karen Pryor. I am a writer, a biologist, and a consultant. My field is animal and human learning and behavior, with the behavior of whales and dolphins as a specialty. I appear before you today as a nominee for the position of Commissioner on the Marine Mammal Commission. I have long been an admirer of the work of the Commission and its staff; Commissioners Elsner and Evans are my colleagues and also my friends. I am honored to be nominated to the Commission and excited by an opportunity to participate in its work.

I have been a naturalist and an environmentalist since childhood. My father, Philip Wylie, was a pioneering conservationist who in the 1940's spearheaded the saving of the Everglades and the clean-up of Miami's Biscayne Bay. I was educated in natural history at Cornell University, and in marine biology at the University of Hawaii. I was one of the founders of Sea Life Park, a major oceanarium, and the Oceanic Institute, a marine research facility, in Hawaii. From 1963 to 1971 I served as curator and head trainer for the oceanarium and the Institute. I pioneered many dolphin training techniques, including training animals to work at liberty in the open sea, and my popular book on dolphin training, written in 1975, is still "the bible" for dolphin trainers everywhere. At Sea Life Park I also conducted research into dolphin learning and behavior for the Office of Naval Research, and published in the scientific literature in the U.S. and Europe.

In 1976 I moved from Hawaii to New York City to work as a science writer. The tuna-porpoise problem was a great concern at the time. Sea Life Park was the only place in the world where the kinds of porpoise or dolphin involved had been kept in captivity. Since I had had considerable experience with the behavior of these "spinner" and "spotter" porpoises, I agreed to be a scientific consultant to the tuna industry, a position I maintained for 6 years. In addition to advising on porpoise behavior I also worked as liaison between industry and the scientific and environmental communities. Also during this period the National Marine Fisheries Service hired me to head up a scientific team to go to sea on a tuna boat and study the behavior of porpoises underwater, by diving in the nets; we learned much that had not previously been known, about the nature of dolphin schools.

In my years as a "dolphin expert" I have given hundreds of lectures and seminars at universities and to the the public all across the country, and consulted to organizations ranging from NASA to the National Geographic Society. I have also, however, acquired expertise in some other areas. For example I'm the author of a book on motherhood which has sold over two million copies. I am a businesswoman; I have run companies and I understand budgets and the problems of management. I am a communicator: I've been a member of the working press. And as a consultant I'm a problem-solver and a facilitator; finding common ground and a common course of action among several conflicting viewpoints is one of the things I do for a living.

The Marine Mammal Commission must work with many groups: the environmental community, the academic, corporate, and governmental communities, and regional and foreign interests. Often these groups are in conflict; yet I believe all share a common aim, the protection of marine mammals. On some issues that confront the Commission I have a foot in several camps. For example as a one-time oceanarium director I understand the problems and the benefits of keeping animals in captivity. As a scientist I'm aware of research needs with captive and wild animals both; and as a birdwatcher and snorkler I'm an avid conservationist and a champion of leaving wild populations undisturbed when possible. It is my experience that seeing a problem from several sides is a real asset when it comes to finding solutions. Finally whether dealing with a major problem such as antarctic resource management, or a smaller problem such as a disputed permit, being a business person I like to keep a sharp eye out for practical and affordable solutions.

If the Senate approves my appointment, as I very much hope it will, it is this broad background of experience and skills that I shall endeavor to make useful to the Marine Mammal Commission, to our government, and to the planet's marine mammals.

Senator STEVENS. Thank you very much.

I have heard a great deal about your Hawaiian activities. What would we call it, a park? And I, for one, welcome the balance that you bring to the Commission of someone who has been involved in all facets of research and applied techniques in the marine mammal field. So, I congratulate the President on the selection of each one of you. We are pleased to have people of your dedication willing to take on these assignments.

Senator, I have finished questioning Dr. Elsner.

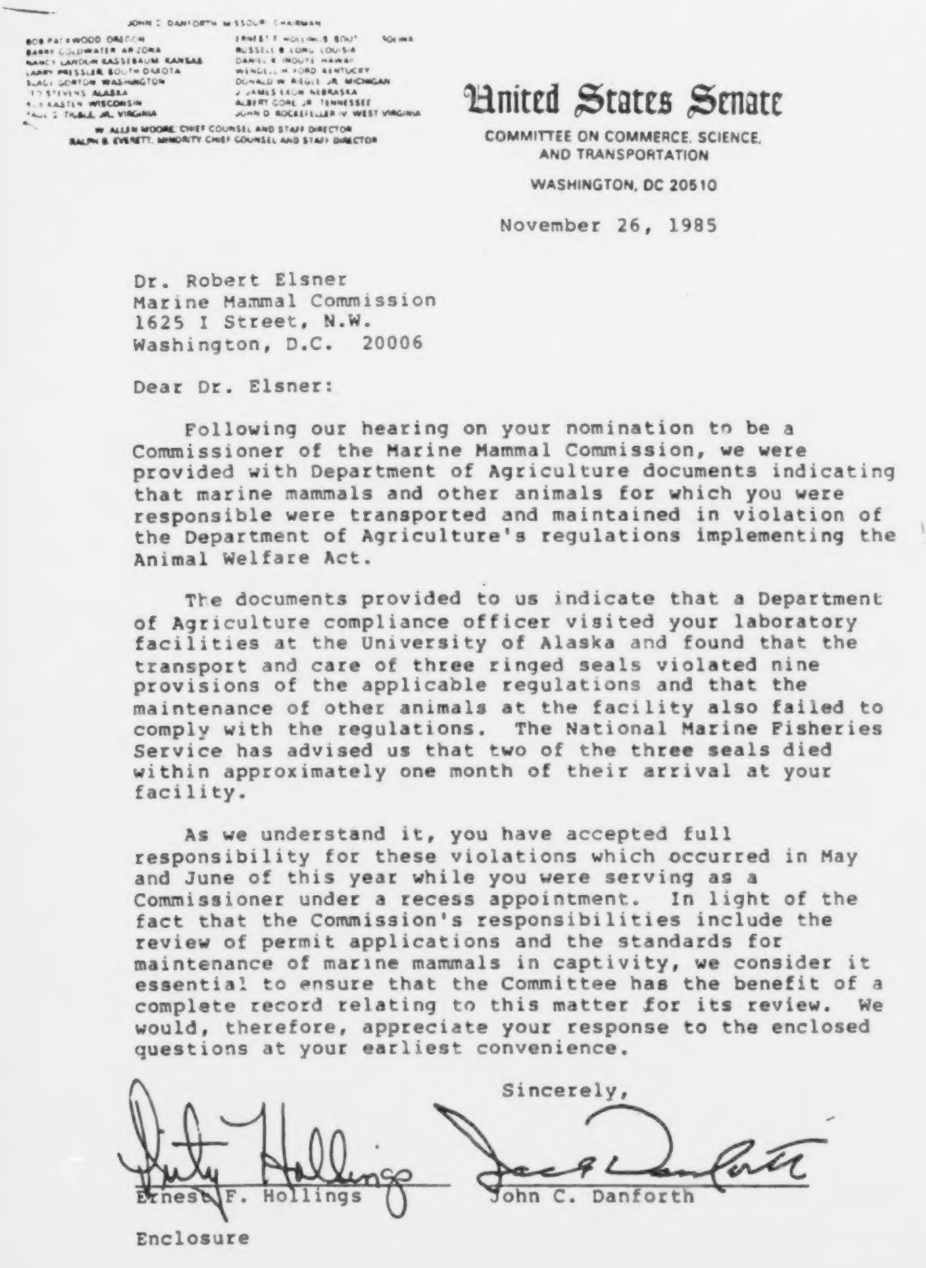
Senator GORTON. I do not have any questions. I simply would like to add to the record a remark Ms. Pryor made to me yesterday when she came by my office. That is that to the best of her knowledge this will be the first time in which this Commission will have been filled exclusively with people from the professions and backgrounds covered by the work of the Commission; people who are truly expert in this field. And I feel that that is a credit to the members of the Commission and a credit to the appointing authority.

Senator STEVENS. I agree with your statement. In the past, it is my judgment that Congress has legislated on the basis of ignorance in dealing with marine mammals. I am hopeful that the Commission, with the addition of you two as new nominees, will do your best to see that we get facts, and that we deal with the question of what the Federal role should be to assure that the total ecosystem has protection, not just protection from one species as opposed to another, but the total ecosystem protection that is required. I think that Senator Gorton and I have a provincial interest in one part of the world, but I am sure that you have a great many challenges you will face in the rest of the country, too. So, we do thank you very much.

There may be other Senators who wish to submit questions for the record, which will be conveyed to you as rapidly as possible. I would ask that those be submitted, and replies be returned, as quickly as we can. It would be my hope that we could take your nomination to the floor before the recess, which is scheduled for early next month. Thank you very much.

[Whereupon, at 10:17 a.m., the committee was adjourned, to reconvene upon the call of the Chair.]

[The following information was subsequently received for the record:]



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United States Senate
COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
WASHINGTON, DC 20510

November 26, 1985

Dr. Robert Elsner
Marine Mammal Commission
1625 I Street, N.W.
Washington, D.C. 20006

Dear Dr. Elsner:

Following our hearing on your nomination to be a Commissioner of the Marine Mammal Commission, we were provided with Department of Agriculture documents indicating that marine mammals and other animals for which you were responsible were transported and maintained in violation of the Department of Agriculture's regulations implementing the Animal Welfare Act.

The documents provided to us indicate that a Department of Agriculture compliance officer visited your laboratory facilities at the University of Alaska and found that the transport and care of three ringed seals violated nine provisions of the applicable regulations and that the maintenance of other animals at the facility also failed to comply with the regulations. The National Marine Fisheries Service has advised us that two of the three seals died within approximately one month of their arrival at your facility.

As we understand it, you have accepted full responsibility for these violations which occurred in May and June of this year while you were serving as a Commissioner under a recess appointment. In light of the fact that the Commission's responsibilities include the review of permit applications and the standards for maintenance of marine mammals in captivity, we consider it essential to ensure that the Committee has the benefit of a complete record relating to this matter for its review. We would, therefore, appreciate your response to the enclosed questions at your earliest convenience.

Sincerely,

Fritz Hollings
Ernest F. Hollings

Jack Danforth
John C. Danforth

Enclosure

INSTITUTE OF MARINE SCIENCE

UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

4 December 1985

The Honorable John C. Danforth
Chairman, Committee on Commerce,
Science, and Transportation
United States Senate
Washington, D.C. 20510

Dear Senator Danforth:

Thank you for your letter of 26 November 1985 and for the opportunity to address the questions therein. I fully understand the importance of this information for you and the Members of the Committee. I am sending an identical response to Senator Hollings who also signed the letter.

Before addressing your specific questions, I should like to express to you my commitment to the humane treatment and proper care of captive marine mammals and other animals. I fully support the concept and practice of care and maintenance standards established under the Animal Welfare Act and the Marine Mammal Protection Act. I am mindful of the need for humane treatment of animals generally and I believe that special concern and respect must be shown for the welfare of captive animals used in research programs.

With regard to the violations of the Animal Welfare Act marine mammal standards that were reported by the Animal and Plant Health Inspection Service, I enclose a copy of my letter of 24 June 1985 to Mr. Daniel Hutchings. In that letter I accepted full responsibility for the reported condition of the marine mammal facilities at the University of Alaska, and I noted that I consider it incumbent upon me to set the best possible example for the humane and healthy treatment of marine mammals.

I have, in my view, a 23-year unblemished record of responsible and dedicated research into marine mammal biology. My professional studies have concentrated on adaptations of marine mammals to their environment. These adaptations include diving, temperature regulation, nutrition, propulsion and sensory mechanisms. This research is intended to provide information related to the understanding and well-being of the animals. It is upon such scientific information that the present care and maintenance regulations are based, and appropriate conservation and management of marine mammals depends upon such understanding. These studies also have important implications for human medicine, including new knowledge relating to neonatal asphyxia and heart disease.

In responding to your specific questions, I shall address the more general question first. My answers are as follows:

Question: "Is this the first time you have been cited for violating standards for care and maintenance of marine mammals? We understand that your Marine Mammal Protection Act permit was issued in 1974 and has authorized export of seals for maintenance in Norway and England. Have the governmental authorities of those nations ever identified any problems with your care and maintenance of marine mammals?"

Answer: I have worked with and maintained many species of marine mammals continuously since 1962. During this entire period prior to June of this year, I have never been cited for violating any animal welfare regulations. In addition to working in the United States at the Scripps Institution of Oceanography and the University of Alaska, I have worked with marine mammals in Antarctica, Australia, England, and Norway. In all of these places, my work has been undertaken with the clearance, authorization, understanding, approval, and support of the appropriate authorities, and I have never been cited for violations anywhere.

Question: "[Provide] copies of the necropsy reports and any other relevant information for the two ringed seals that died on June 20, 1985. We understand that such reports are required by your Marine Mammal Protection Act permit to be submitted within 30 days after the death of any animal covered by the permit;"

Answer: My Marine Mammal Protection Act permit requires that "[i]n the event any marine mammal is killed or injured during the course of taking, the Holder shall notify the Director as soon as possible but no later than 30 days after the event." No animals were killed or injured during the course of this taking. It is worth noting at this point, however, that four days after the deaths of the animals in question (and one day after I, in England at the time, learned of their deaths) I formally notified the Animal and Plant Health Inspection Service of the mortalities (see 24 June 1985 letter to Mr. Hutchings).

Although my permit does not require the submission of necropsy reports, I shall provide both the Animal and Plant Health Inspection Service and the National Marine Fisheries Service all relevant information on the deaths of the two ringed seals. I have so indicated to the National Marine Fisheries Service both verbally and in writing. Necropsies were performed on both animals within twenty-four and thirty-six hours of death, respectively.. While I had expected complete necropsy reports by now, the histological work-ups are not yet finished but should be done soon. I shall provide you with copies of these when completed. In the meantime, the information developed during the gross necropsies is enclosed. These reports show no obvious relationship between the state of the facility and the deaths of the animals.

Question: "[Provide] your explanation of why you chose to collect and transport the seals to your facility before you had repaired and properly maintained it;"

Answer: The seal facilities had not been used since the previous season, and they needed some repair and reorganization. I was making the necessary improvements when the decision was made to initiate efforts to capture the animals. Although aware of the potential for noncompliance, I believed that I would be able to stay ahead of events and bring the facilities into conformance with applicable standards prior to the animals' arrival. Unfortunately, my assessment was wrong, and the animals arrived before final repairs were completed.

The decision to proceed with collection was based on several factors. First, I believed that the repairs would be completed prior to the arrival of the seals. Second, since newly-captured adult seals require an extended period of acclimation and training, it was important to obtain them as soon as practicable in order to adhere to my research schedule. Third, since ringed seals occupy sea ice snow lairs that are extremely difficult to locate, capture is unpredictable and frequently so time consuming that it seemed sensible to start the collection process while the repairs were underway. The animals were captured more quickly than anticipated, however, and it seemed prudent to ship the seals to Fairbanks immediately so that they could be better fed and cared for. Fourth, since I did not receive notification of research funding approval from the National Science Foundation until late spring, this was another factor contributing to the delay in initiating improvements.

Renovations started prior to the collection were completed expeditiously, and, when a follow-up inspection was done on June 19th (the initial inspection was conducted on June 6th) the compliance officer determined that my facility satisfied all applicable standards.

Question: "[Provide] your explanation of why water quality records and a written program for veterinary care were not maintained as required by the regulations;"

Answer: Since the seal facilities had not been used since the previous season, there was no need to maintain ongoing water quality records prior to the ringed seals' arrival. However, before their arrival I did notify the State bacteriology laboratory of the need to resume regular water testing. Because the animals arrived earlier than anticipated, the required testing had not been done as of the date of the initial inspection. Water sampling was initiated on June 18th, however, and continues at the prescribed intervals.

I have always taken care to ensure that good quality veterinary care is available at my facility. Veterinary supervision is provided by Dr. Robert Dieterich, a veterinarian who is well known and well respected by the Department of Agriculture staff responsible for overseeing the facility. Dr. Dieterich is a faculty member at the Institute of Arctic Biology at the University of Alaska. Unfortunately, he was absent from the campus on the date of the inspection and could not address any concerns raised by the compliance officer.

The compliance officer's inspection report noted that there was no written program. To the contrary, however, Dr. Dieterich has notification from the Department of Agriculture's Animal and Plant Health Inspection Service that such a plan has been on file since 1980. Dr. Dieterich has outstanding credentials, and our veterinary program has always been conducted in strict compliance with Animal Welfare Act and Marine Mammal Protection Act regulatory standards.

Question: "[Provide] your explanation of why minimum water depth and dry resting area requirements were not satisfied while repair was underway, assuming that the facilities complied with the regulations in these respects when they were previously used to maintain seals;"

Answer: Noncompliance with these standards in one pool was due to the peculiar demands of one of the captured animals. That seal was very aggressive and potentially dangerous to both itself and to individuals working with it. For this reason, it was placed in a pool in which the water level had been temporarily lowered to provide for ready access and therefore less traumatic handling. The dry haul-out platform for that pool had also been removed temporarily to limit the range of the animal to a controllable environment. Both measures were temporary and were taken in the interests of the animal involved. Necessary repairs to the second pool were still unfinished.

Question: "[Provide] your explanation of why the facilities for maintenance of lemmings, arctic fox, muskrat and squirrels were not properly maintained so as to be free of the debris, weeds, excessive manure and hair, rust and other problems identified in the Department of Agriculture inspector's report;"

Answer: My responsibility for the animals at the Institute of Arctic Biology is limited to seals. I have, nonetheless, consulted with those responsible for the other animals in question, and I am now assured that these facilities are in compliance with applicable standards. Although the compliance officer's inspection report noted facility deficiencies for these other animals, the notice of violation concerning my facility did not allege noncompliance with any non-marine mammal standards.

Question: "[Provide] a clarification of the statement in your letter of 24 June 1985 to Dr. Daniel Hutchings of the Department of Agriculture that use of airline dog kennels to transport seals is consistent with the regulations. Were you not aware of the provisions of the regulations?"

Answer: The marine mammal standard at issue establishes criteria to ensure that the primary enclosure used to transport a marine mammal is sufficient to provide for its well-being. In one subsection, for example, ten standards are set forth concerning primary enclosure characteristics such as construction materials, absence of interior protrusions that could cause injury, openings that provide access, air inlets, etc. Based upon my personal experience, regulation airline dog kennels similar to those that I have used in the past satisfy these requirements.

In arranging to transport the ringed seals, I was aware of the requirement that pinnipeds are to be provided with room to "lie in a natural position." The compliance officer interpreted this standard to mean that the animal must be fully extended. However, I have expressed to the Animal and Plant Health Inspection Service a different point of view which is based on the natural behavior of this species. The snow lairs in which ringed seals haul out and raise their young are often of dimensions that preclude full extension. Thus, it is the natural tendency of ringed seals to remain in a curled up position when in such enclosed areas. The posture assumed during shipment in kennels of the size that we have used therefore resembles a ringed seal's "natural position."

At various times before arrival at the University of Alaska, the seals were observed to be resting comfortably. They assumed a natural posture, changed positions at will, and turned around freely. Although I continue to believe that the kennels used to transport the ringed seals met all regulatory requirements and were otherwise satisfactory, I recognize the concerns of the Animal and Plant Health Inspection Service and shall consult with them on the suitability of enclosures prior to any future shipments.

As I stated earlier in this letter, I firmly believe in the regulatory controls established under both the Animal Welfare and Marine Mammal Protection Acts. I also understand why you have sought and need a detailed explanation of the circumstances bearing on this issue, and I hope that my answers are fully responsive to your concerns.

I would be grateful if you would let me know if I can be of further assistance in this matter.

Sincerely,

Robert Elsner

Robert Elsner, Ph.D.
Professor of Marine Science

Enclosures

RE/pl

London
24 June 1985

Mr. Daniel Hutching
USDA - APHIS
Veterinary Services
1200 Cooper Point Road SW
Olympia, Washington 98502

Dear Mr. Hutching:

I regret very much that I have been away from my office at the University of Alaska during your visits in connection with the condition of the seal holding facility. Brendan Kelly, with whom you have met, and I have been in touch by telephone, and he has informed me of the inspection and discussion with you. I can understand your concerns with conditions as you found them, and I wish to respond as well as I can from here. I will be returning to Alaska about the first of August, and I will be available at that time for more detailed discussions. Meanwhile, I will continue to be communicating with Mr. Kelly from time to time by telephone.

I should like to make the case that the conditions as you found them were not typical of the way I have been managing captive seals. I readily admit that the facility was not in general compliance with established regulations. We had not held seals for over a year, and the facility had deteriorated during that time. I had hoped to be able to take advantage of recent capture techniques devised by us to obtain the adult ringed seals, Phoca hispida. Regrettably, everything happened at once. The seals were available before I had repaired and properly maintained the facility; I had no help and was doing what I could alone, and I had to leave for meetings just in the midst of this. I assure you that I accept full responsibility for this situation. Furthermore, I recognize that as an "old hand" in the marine mammal business and as a representative of the University of Alaska it is incumbent upon me to set the best possible example for humane and healthy treatment of the animals.

The standards of animal care under my supervision were substantially better thah when you saw them, and they were in that condition when they were approved by Dr. Daniel Jones. All along, I have maintained seals with minimum funding support, and it has been a constant struggle to keep up to the appropriate standards because of the marginal funding level with which I have operated. Therefore, I have limited the experimental work in Fairbanks to those situations which I thought I could adequately manage. For those investigations requiring drastic surgical interventions I have depended in recent years on the availability of beach-stranded seals. These animals have been obtained from Sea World, the San Diego oceanarium, and the experiments have been performed in collaboration with colleagues at the University of California, San Diego, School of Medicine and the University of London. The transfer of beach-stranded seals was accomplished through administrative procedure under the jurisdiction of the National Marine Fisheries Service. My research involving cardiovascular reactions of diving seals has been funded by The National Institutes of Health, National Science Foundation and the State of Alaska. This work started some twenty years ago when I was at Scripps Institution of Oceanography in California. It deals with some responses and adaptations to asphyxia in seals which has potential implications for human medicine. In addition, numerous other studies have been accomodated in order to make maximum use of the animals.

I understand that objection has been found to the methods used in transporting the seals. Over the years I have shipped seals within Alaska, the lower States and overseas to Norway and England, and those shipments have used the regulation airline dog kennels. In my understanding, such a procedure is consistent with the regulations. My interpretation has been supported by veterinary practice and approval. The recent shipment from Barrow to Fairbanks was accomplished without an accompanying supervisor. Mr. Kelly and I coordinated the shipments by telephone, and I personally met each flight. On all previous shipments involving any stopovers I have personally accompanied the seals by prior arrangement with the airlines, inspecting and watering the animals at each stop. These shipments have always been quite successful.

No doubt you are aware that two of the ringed seals died suddenly at about the same time a few days ago. In the past we, and others too, have had difficulties with keeping ringed seals. We have been generally more successful with both harbor and spotted seals. Therefore, I realized that we were taking some risk with these seals. I do not yet know the cause of the deaths, but I doubt that they might have been caused or influenced by the conditions of maintenance.

Please be assured that I regard the present situation most seriously and that I wish to do whatever is required and within our capabilities to comply with pertinent regulations. Again, I regret that I have to be away just at this critical time. I am quite willing to meet with you upon my return in August.

Sincerely,

Robert Elsner, Ph.D.
Professor of Marine Science

Date of Death 6/20/85 INSTITUTE OF ARCTIC BIOLOGY System No. [illegible]

PATHOLOGY REPORT

Month BK 6 (BK1-12)
Year GN 85 (GN79-90)
Species ID# 7912 RINGED SEAL
Sex BK21 ✓ Male
BK23 ___ Female

BL0-9	BL10-19	BL20-29	BL30-39	BL40-49	BL50-59	BL60-69
Group	Order	Family	Genus	Species	Subspec.	Location

AGE

(ELSNER)

BK 26 ___ Unknown
BK 27 ___ 0-less than 1 day
BK 28 ___ 1 day-less than 1 week
BK 29 ___ 1 week-less than 2 weeks
BK 30 ___ 2 weeks-less than 1 month
BK 31 ___ 1 mo.-less than 2 months
BK 32 ___ 2 mo.-less than 3 months
BK 33 ___ 3 mo.-less than 6 months
BK 34 ___ 6 mo.-less than 9 months
BK 35 ___ 9 mo.-less than 1 year
BK 36 ___ 1 yr.-less than 1 1/2 years
BK 37 ___ 1 1/2 years-less than 2 years
BK 38 ___ 2 years-less than 3 years
BK 39 ✓ 3 years-and over ~5 yrs.

DIAGNOSTIC PROCEDURES

BK 57 ___ Clinical Diagnosis
BK 58 ___ Gross Pathology
BK 59 ___ Histopathology
BK 60 ___ Hematology-Serology
BK 61 ___ Microbiology
BK 62 ___ Biochemistry
BK 63 ___ Parsitology
BK 79 ___ Photo-Gross
BK 80 ___ Photo-Micro

IMS: ELSNER +
Experiment No. KELLY
IMS# 42856 "BULL"

	DIAGNOSTIC CATEGORY	TISSUE SAVED		DIAGNOSTIC CATEGORY	TISSUE SAVED
BK 81 ___	Skin-Pelage Sys.	BK 40 ___	BK 89 ___	Nervous Sys.	BK 48 ___
BK 82 ___	Musculo-Skel. Sys.	BK 41 ___	BK 90 ___	Organs of Spec. Sense	BK 49 ___
BK 83 ___	Respiratory Sys.	BK 42 ___	BK 91 ___	Body as a Whole	BK 50 ___
BK 84 ___	Cardiovascular Sys.	BK 43 ___	BK 92 ___	Viral. Ricket./PPLO Dis.	BK 51 ___
BK 85 ___	Hemo./Lymph. Sys.	BK 44 ___	BK 93 ___	Bacterial Diseases	BK 52 ___
BK 86 ___	Digestive Sys.	BK 45 ___	BK 94 ___	Fungal/Mycotic Dis.	BK 53 ___
BK 87 ___	Urogenital Sys.	BK 46 ___	BK 95 ___	Parasitism	BK 54 ___
BK 88 ___	Endocrine Sys.	BK 47 ___	BK 96 ___	Neoplasms	BK 55 ___

HISTORY: CAPTURED NEAR BARROW 5/27/85, FLOWN TO FBKS. 5/29, ATE FIRST FISH 6/16 & ATE 72 FISH/DAY 6/17-19, 5-6 DAYS OF DISTURBANCE DUE TO REPAIR OF SEAL PENS, FOUND DEAD 3 pm 6/20, LOST 14 LBS.

GROSS LESIONS:
1. PULMONARY CONGESTION, BILATERAL
2. INTERSTITIAL EMPHYSEMA WITH SUBPLEURAL BULLOUS EMPHYSEMA, BILATERAL
3. FOCAL EROSIONS, PYLORUS

HISTOPATHOLOGIC EXAMINATION:
A. FOCAL HEMORRHAGES, MIDBRAIN & SUBENDOCARDIUM
B. CENTRILOBULAR HEPATOCYTIC DEGENERATION: CHRONIC PASSIVE CONGESTION
C. PULMONARY CONGESTION, EDEMATOUS INTERSTITIUM AND SUBPLEURA
D. FOCAL GASTRITIS, MILD
E. HEALING LACERATION (LEFT ABDOMEN)
F. 4 SARCOCYSTIS - TYPE CYSTS, SKELETAL MUSCLE

DIAGNOSIS: (PROXIMATE) CARDIOVASCULAR COLLAPSE - S 27

CODE: S-27

/21/83
IMS: Animal
Quimotens, IAB
Kelly, Elsner

3668 Ringed seal ♂

Gross:

An adult male ringed seal is present for necropsy approx. 24 hours post mortem. The hide, with 5 cm of attached blubber, has been removed from the carcass to facilitate refrigeration. Internal body fat stores are minimal. A small (< 4 cm) healing laceration is present on the left side just anterior to the pelvis

Both lungs are markedly congested, dark red, and heavy. Clear pink-tinged fluid exudes from cut surfaces. Interstitial areas are prominent, widened by air and clear fluid. Interstitial emphysema with multifocal bullous emphysema is apparent beneath the visceral pleura of both lungs and all lobes. Trachea and bronchi contain a little clear fluid and almost no froth.

The stomach is almost entirely empty, containing a few hard yellow fragments (possible herring bones); the organ is constricted, with the mucosal rugae prominent. The pyloric mucosa is marked by several focal (5 mm) erosions.

The abdominal cavity vasculature is markedly congested; the parietal peritoneum is red to plum-colored. Pericapsular renal vessels are prominent. Hepatic centrilobular congestion is apparent. The left atrium is distended by blood; heart, valves and pericardium are normal.

The following tissues are also considered grossly normal: brain, oral cavity, pharynx, esophagus, spleen, small and large intestines, rectum (fecal content scanty), pancreas, adrenals, thyroids, kidneys, urinary bladder (empty), testes and epididymis, joint surfaces, muscle, external and internal lymph nodes.

Gross diagnosis:

1. Pulmonary congestion, bilateral
2. Interstitial emphysema with subpleural bullous emphysema, bilateral
3. Focal erosions, pylorus

Pending:

1. Histopathology
2. Tissues frozen for possible toxicology: spleen, liver, kidney, heart, lung, skeletal muscle, blubber
3. Bacteriology: lung section: contaminants only grown · 7/1/85

Carl A. Nielsen DVM 6/25/85

3668 RINGED SEAL

Histopathology

1. CNS FOCAL HEMORRHAGES, MIDBRAIN

2 LUNG: CONGESTION, EDEMATOUS INTERSTITIAL AREAS, SUBPLEURAL EDEMA

3 LIVER CENTRILOBULAR HEPATOCYTIC DEGENERATION (CHRONIC PASSIVE CONGESTION)

4 HEART: FOCAL HEMORRHAGES, esp. SUBENDOCARDIAL LOCATIONS

5. STOMACH: 2 AREAS OF MUCINOUS DEBRIS ACCUMULATION (NO EROSIONS), NECROTIC ENTEROLITHS IN SOME CRYPTS (FOCAL GASTRITIS)

6. SKIN: PMN's & NECROTIC TISSUE WITH BACTERIAL COLONIES LINE CRUST; ADJACENT DERMIS WITH MONONUCLEAR & GIANT CELLS DISPERSED (HEALING LACERATION); 4 Sarcocysts-type cysts IN MUSCLE

7. NORMAL TISSUES: KIDNEY, SPLEEN, THYROID, PROSTATE, URETHRA, TESTIS, EPIDIDYMIS.

Histopath Dx

1. FOCAL HEMORRHAGES, MIDBRAIN + SUBENDOCARDIUM
2. CENTRILOBULAR HEPATOCYTIC DEGENERATION: CHRONIC PASSIVE CONGESTION
3. PULMONARY CONGESTION, EDEMATOUS INTERSTITIUM & SUBPLEURA
4. FOCAL GASTRITIS, MILD
5. HEALING LACERATION
6. 4 *SARCOCYSTIS*-TYPE CYSTS IN SKELETAL MUSCLE (INCIDENTAL PARASITISM)

Comment

THE CHANGES SEEN IN THIS CASE ARE THE RELATIVELY NONSPECIFIC MANIFESTATIONS OF SHOCK AND CARDIOVASCULAR COLLAPSE. THE LESS PROXIMATE CAUSE(S) OF DEATH REMAIN OBSCURE.

Carol A. Nielsen DVM
12/2/85

MEMORANDUM

TO: Carol Nielsen DATE: 21 June 1985

FROM: Bud Fay

SUBJECT: Seals necropsied this date

Your No. 3668 My No. 42856 Name: "BULL"

Species: Phoca hispida, ringed seal Sex: Male

Captured at Barrow about 27 May 85; arrived Fairbanks 29 May

Overall length: 96 cm Axillary girth: 85.5 cm

Total weight: 75 lb

Findings:

EXTERNAL (20 June, at time of removal of skin and blubber)

Skin: Lacerations behind L forelimb open, apparently draining well; no swelling or residual hemorrhage. Old, thick-walled, 1-2 ml subcutaneous abscess anterior to scapula on R side containing very slightly opaque, yellowish liquid.

Blubber: Normal, pink, 4.4 cm thick over sternum.

Nose: A few drops brownish, bloody, fluid from nostrils.

INTERNAL (21 June)

Liver and Spleen: Normal.

Mesenteric lymph node: Dark patches internally.

Stomach: Empty. Bleeding ulcers, <1 cm diam, near pyloric end.

Small intestine: Slightly congested but no evident bleeding.

Bladder: Empty, normal.

Lungs: Very congested. Interstitial edema or emphysema.

Bronchi: Nearly normal, maybe just a little excess fluid but not frothy or bloody.

Heart: Left atrium distended w/ blood.

Trachea: Small amount of foam near laryngeal end; not bloody.

Date of Death 6/21/85 INSTITUTE OF ARCTIC BIOLOGY System No. 3661

PATHOLOGY REPORT

Month BK-6 BK1-12
Year 6N85 GN79-90
Species ID# 7912 RINGED SEAL
Sex BK21 ✓ Male
BK23 ____ Female

BL0-9	BL10-19	BL20-29	BL30-39	BL40-49	BL50-59	BL60-69
Group	Order	Family	Genus	Species	Subspec.	Location

AGE

(EISNER)

BK 26 ___ Unknown
BK 27 ___ 0-less than 1 day
BK 28 ___ 1 day-less than 1 week
BK 29 ___ 1 week-less than 2 weeks
BK 30 ___ 2 weeks-less than 1 month
BK 31 ___ 1 mo.-less than 2 months
BK 32 ___ 2 mo.-less than 3 months
BK 33 ___ 3 mo.-less than 6 months
BK 34 ___ 6 mo.-less than 9 months
BK 35 ___ 9 mo.-less than 1 year
BK 36 ___ 1 yr.-less than 1 1/2 years
BK 37 ___ 1 1/2 years-less than 2 years
BK 38 ___ 2 years-less than 3 years
BK 39 ✓ 3 years-and over

DIAGNOSTIC PROCEDURES

BK 57 ___ Clinical Diagnosis
BK 58 ___ Gross Pathology
BK 59 ___ Histopathology
BK 60 ___ Hematology-Serology
BK 61 ___ Microbiology
BK 62 ___ Biochemistry
BK 63 ___ Parsitology
BK 79 ___ Photo-Gross
BK 80 ___ Photo-Micro

IMS: EISNER & KELLY
Experiment No.
IMS# 42850, "J.R."

DIAGNOSTIC CATEGORY		TISSUE SAVED	DIAGNOSTIC CATEGORY		TISSUE SAVED
BK 81___	Skin-Pelage Sys.	BK 40___	BK 89___	Nervous Sys.	BK 48___
BK 82___	Musculo-Skel. Sys.	BK 41___	BK 90___	Organs of Spec. Sense	BK 49___
BK 83___	Respiratory Sys.	BK 42___	BK 91___	Body as a Whole	BK 50___
BK 84___	Cardiovascular Sys.	BK 43___	BK 92___	Viral. Ricket./PPLO Dis.	BK 51___
BK 85___	Hemo./Lymph. Sys.	BK 44___	BK 93___	Bacterial Diseases	BK 52___
BK 86___	Digestive Sys.	BK 45___	BK 94___	Fungal/Mycotic Dis.	BK 53___
BK 87___	Urogenital Sys.	BK 46___	BK 95___	Parasitism	BK 54___
BK 8S___	Endocrine Sys.	BK 47___	BK 96___	Neoplasms	BK 55___

HISTORY: CAPTURED NEAR BARROW 5/25/85, FLOWN TO FBKS. 5/27/85 (WITH #3658), ATE ONE FISH/DAY 6/5-6/9, 2 FISH/DAY 6/11 & ON TO 4 FISH/DAY 6/16-19; 5-6 DAYS OF DISTURBANCE DUE TO REPAIR OF SEAL PENS; FOUND DEAD 6/20, LOST 26 LBS.

GROSS LESIONS:
1. BILATERAL PULMONARY CONGESTION
2. INTERSTITIAL EMPHYSEMA WITH SUBPLEURAL BULLOUS EMPHYSEMA, BILATERAL
3. ULCERATIONS & SUBMUCOSAL HEMORRHAGE OF STOMACH, WITH ABNORMAL CONTENT

HISTOPATHOLOGIC EXAMINATION: (PLASTIC STRIPS) & RADIAL CONTRACTIONS OF MUSCULARIS.

DIAGNOSIS:

CODE: ________
____
____

IMS: ANIMAL
QUARTERS, IMB
KELLY, EISNER

3669 RINGED SEAL ♂

GROSS:

AN ADULT MALE RINGED SEAL IS PRESENTED FOR NECROPSY APPROX. 36 HOURS POST MORTEM. A PAPER TAG WITH LETTERS « JR » IS ATTACHED TO THE REAR FLIPPERS. THE HIDE, WITH 5 CM OF ATTACHED BLUBBER, HAS BEEN REMOVED TO FACILITATE REFRIGERATION. INTERNAL BODY FAT STORES ARE MINIMAL.

A WELL-ENCAPSULATED ABSCESS, MEDIAL TO THE HEAD OF THE RIGHT HUMERUS IN THE SUBCUTIS AND FASCIA OF THE AXILLARY REGION, DRAINS AS A FISTULOUS TRACT. THERE ARE ALSO SEVERAL HEALING PUNCTURES ON THE RIGHT FLIPPER AND ON BOTH HIND FLIPPERS.

BOTH LUNGS ARE HEAVY, CONGESTED, DARK RED, AND EXUDE CLEAR PINK-TINGED FLUID FROM THE CUT SURFACE. A PATTERN OF PALE PINK AERATED (NORMAL) ACINI COMPRISING ~20% AMONG DARK (CONGESTED) ACINI IS APPARENT ON THE VISCERAL PLEURAL SURFACE. INTERSTITIAL AREAS ARE ALSO PROMINENT SUBPLEURALLY AS WELL AS WITHIN THE PARENCHYMA; RARE AREAS OF SUBPLEURAL FOCAL BULLOUS

EMPHYSEMA ARE ALSO PRESENT BILATERALLY. TRACHEA AND BRONCHI CONTAIN A LITTLE CLEAR FLUID AND ALMOST NO FROTH.

THE STOMACH CONTAINS APPROX. 1 LITER OF SEMI-SOLID HEMORRHAGIC CONTENTS, AMONG WHICH LONG PLASTIC STRIPS ~25 MM WIDE ARE PROMINENT AS TANGLED CLUMPS (POSSIBLE FIBER TAPE). TWO LARGE, CRATERED ULCERATIONS IN THE PYLORIC AREA ARE 15-20 MM IN DIAMETER WITH RAISED MARGINS AND FOCALLY HEMORRHAGIC FLOORS. APPROXIMATELY 5 LINEAR (5-10 MM) DARK RED AREAS WITHIN THE DISTAL FUNDIC MUCOSA REPRESENT EITHER SUBMUCOSAL HEMORRHAGES OR FOCAL ULCERATIONS. CIRCUMFERENTIAL CONTRACTION OF THE FUNDIC TUNICA MUSCULARIS WITH RADIAL POSITIONING OF THE RUGAE IS MARKED.

THE ADRENAL CORTICES ARE MARKED BY RED STRIAE, PARTICULARLY MEDIALLY. THE ABDOMINAL VASCULATURE IS CONGESTED; THE PARIETAL PERITONEUM IS PLUM-COLORED. HEPATIC CENTRILOBULAR CONGESTION IS MARKED. THE GALL BLADDER IS DISTENDED. THE HEPATIC SINUS AND LEFT ATRIUM ARE DISTENDED WITH BLOOD. THE HEART, VALVES AND PERICARDIUM ARE NORMAL, WITH LARGE SEPARATED CLOTS IN ALL CARDIAC CHAMBERS.

THE FOLLOWING TISSUES ARE CONSIDERED GROSSLY NORMAL: BRAIN, ORAL CAVITY, PHARYNX, ESOPHAGUS, SPLEEN, SMALL AND LARGE INTESTINES, RECTUM (NO FECAL CONTENT), PANCREAS, THYROIDS, KIDNEYS, URINARY BLADDER (empty), TESTES AND EPIDIDYMIS, JOINT SURFACES, MUSCLE, EXTERNAL AND INTERNAL LYMPH NODES.

GROSS DIAGNOSIS:

1. PULMONARY CONGESTION, BILATERAL
2. INTERSTITIAL EMPHYSEMA WITH SUBPLEURAL FOCAL BULLOUS EMPHYSEMA, BILATERAL
-3. ULCERATIONS AND SUBMUCOSAL HEMORRHAGE, STOMACH
    a. WITH ABNORMAL CONTENT (plastic strips)
    b. GASTRIC HEMORRHAGE
    c. RADIAL CONTRACTIONS, GASTRIC MUSCULARIS

COMMENT:

THE GASTRIC LESIONS, PARTICULARLY THE RADIAL CONTRACTIONS, INDICATE THE ABNORMAL CONTENT MAY NOT HAVE BEEN AMENABLE TO PASSAGE THROUGH THE pyloric SPHINCTER. THE LARGER ULCERATIONS AND GASTRIC HEMORRHAGE ARE PROBABLY ASSOCIATED WITH THE PRESENCE OF THESE CONTENTS FOR >12 HOURS.

THIS SITUATION MAY HAVE CONTRIBUTED TO GENERAL STRESS, BUT WAS NOT THE primary PROXIMATE CAUSE BECAUSE THE AMOUNT OF HEMORRHAGE WAS NOT GREAT: NO DIGESTING BLOOD WAS OBSERVED IN THE SMALL INTESTINE.

PENDING:

1. Histopathology
2. TISSUES FROZEN (possible TOXICOLOGY): spleen, LIVER, KIDNEY, HEART, LUNG, SKELETAL MUSCLE, BLUBBER.

Carol A Nielsen DVM
6/25/85

Your No. 3669 My No. 42850 Name: "J.R."

Species: Phoca hispida, ringed seal Sex: Male

Captured at Barrow about 25 May 1985; arrived Fairbanks 27 May

Overall length: 95 cm Axillary girth: 84.5 cm

Total weight: 68 lb

Findings:

EXTERNAL (20 June, at time of removal of skin and blubber)

Skin: Puncture wounds in R fore flipper, R axilla, and both hind flippers. All open, apparently draining-healing. No swelling or residual hemorrhage.

Blubber: Normal, pink, 3.9 cm thick.

Nose: 3-4 ml brownish, bloody, foul-smelling fluid from nostrils.

INTERNAL (21 June)

Liver and spleen normal.

Stomach: Contains partly digested food (herring) from last feeding (about 7:00 pm on the 19th), plus strips of glass fiber tape. Bleeding ulcers to 1 cm diam. (flat, w/raised margins), near pyloric end.

Intestine: Not congested. No blood in feces.

Adrenal: Cortex hemorrhagic.

Lungs: Very congested but with patches of normal, air-filled, alveoli. Emphysema.

Bronchi: Small amount of fluid but not bloody, except perhaps distally (p-m change?).

Trachea: Dry, normal.

Heart: Left atrium distended.

MARINE MAMMAL COMMISSION
1625 EYE STREET, N.W.
WASHINGTON, DC 20006

11 December 1985

Robert Eisenbud, Esquire
Professional Staff Member
National Ocean Policy Study
Committee on Commerce, Science
and Transportation
Hart Senate Office Building - Room 427
Washington, DC 20510

Dear Bob:

Many thanks for your call this morning and for the questions which you posed. It is certainly important that you have the answers to these should they arise. To provide this information, I called Bob Elsner today but was not able to reach him until 3:00. That is why I am so late in getting this to you.

Question: "Dr. Elsner's letter to Mr. Hutchings says that he was working alone to fix up the seal holding facility and that he had to leave the country for meetings before the repairs were completed. Did he expect someone else to complete the repairs while he was away and/or did he not expect the seals to arrive before he returned and completed the repairs?"

Answer: The seals had, in fact, arrived before Bob left for the IWC meeting. It is also accurate to say that repairs had not been completed by the time Bob left for the IWC meeting. On leaving, he put Brendan Kelly, his research assistant, in charge of continuing and completing repairs. It was thanks to the latter's work that everything was completed well before the re-inspection on June 19th.

Question: "The necropsy reports submitted with Dr. Elsner's letter do not indicate a definitive cause of death for the two ringed seals in question. They mention that one of the animals had plastic in the gut. Can Dr. Elsner provide any additional information as to the likely cause of death of the two animals? Is it clear whether the plastic came from the repairs to the holding facility which were under way?"

Answer: The work done by the consulting veterinarian, Carol Nielsen, D.V.M., has shown no definitive cause of death in either case. With respect to the plastic, neither Bob nor anyone else is sure where the piece of plastic (possibly fiber tape) came from, but it is conceivable that it may have been in the frozen fish. The veterinarian does not consider it a cause of death.

I hope that these answers are fully responsive.

Sincerely,

John R. Twiss, Jr.
Executive Director

FRANCIS J. IVANCIE, TO BE A COMMISSIONER, AND EDWARD V. HICKEY, JR., TO BE CHAIRMAN, FEDERAL MARITIME COMMISSION; AND JOHN GAUGHAN, TO BE ADMINISTRATOR, MARITIME ADMINISTRATION

THURSDAY, OCTOBER 17, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 10:15 a.m., in room SR-253, Russell Office Building, Hon. Ted Stevens presiding.

Staff members assigned to this hearing: Macky Ayers, professional staff member; Bob Eisenbud, staff counsel; and John Hardy, minority staff counsel.

OPENING STATEMENT BY SENATOR STEVENS

Senator STEVENS. Good morning. My apologies for being late. We welcome to this hearing of the full committee our colleagues who will present one of the nominees to be considered here this morning.

We are considering the nominations of Mr. Edward Hickey and Mr. Francis Ivancie to be Commissioners of the Federal Maritime Commission; and Mr. John Gaughan to be Administrator of the Maritime Administration.

The importance of the FMC and Marad to the health of the U.S. merchant marine cannot be overstated. Taken together, their decisions impact on current operations as well as its ultimate survival. It is for that reason that we are particularly pleased to consider these nominations to bring the Federal Maritime Commission to its full complement of five Commissioners and to fill the position of Administrator of the Maritime Administration.

Our first appearance this morning is from our colleagues, Senator Hatfield and Senator Packwood, who are here to introduce one of the nominees.

Gentlemen, welcome to the committee.

Senator Inouye do you have a statement?

OPENING STATEMENT BY SENATOR INOUYE

Senator INOUYE. Mr. Chairman, because of the constraints of time, may I request that my statement be made part of the record. Furthermore, much as I would like to remain here for the rest of the hearing, I have been called away, so may I have my questions also included in the record and ask the nominee to respond to that?

Senator STEVENS. Yes, certainly. I would be happy to do that.

Senator INOUYE. And before I leave, I would like to say that I have had the privilege of meeting with Mr. Ivancie, and although he is not involved directly in the business of maritime affairs, I believe that his involvement in affairs along the rim of the Pacific makes him fully appreciative of the importance of shipping. And, equally important, since he is not tainted by direct involvement in industry, he will very likely come in without any built-in bias or preconceived ideas as to how the maritime industry should be run.

Mr. Chairman, I welcome Mr. Ivancie. Hopefully he will be approved as soon as possible.

Once again, may I have my statement made part of the record?

Senator STEVENS. Yes. It will be placed in the record.

OPENING STATEMENT BY SENATOR INOUYE

Today the committee is considering nominations for: The Administrator of the Maritime Administration, membership on the Federal Maritime Commission.

The Maritime Administration, of course, has the responsibility for promoting the U.S. Maritime industry. Our merchant fleet and our commercial shipyards have been in a precipitous decline for several years. In the judgment of many, that rate of decline has been accelerated because the Government has eliminated or curtailed most of the traditional support programs, while at the same time offering no suitable alternatives. Instead, it has substituted piecemeal solutions to the problems which have arisen.

In my view, this AD HOC approach has exacerbated the decline, because it has divided the maritime house, and set one interest against another.

Yesterday, under the leadership of the distinguished chairman of the subcommittee, we met with many of the leaders in the maritime industry to explore the possibility of reaching a consensus on precise remedies for the existing situation. I am hopeful we will eventually be successful, but if the administration continues to advance divisive proposals while we are trying to unite the industry, I am afraid our efforts are pre-ordained to failure.

So this morning I would hope the nominee to be Administrator of the Maritime Administration will reassure the subcommittee on this point.

The Federal Maritime Commission, of course, has the responsibility for regulating our international and domestic liner trades.

During the several years I have been a member of the Merchant Marine Subcommittee, the single greatest threat to the stability of our international liner trades and the ability of U.S.-operators to compete in those trades, has been the practice of carriers secretly departing from their published tariffs. that is, offering illegal rebates. These kickbacks to favored shippers not only destroy the ability of carriers to compete honestly but they also give an unfair advantage to foreign carriers over their U.S. counterparts. The records of foreign carriers are far more difficult to obtain, particularly in those countries with so-called "blocking" statutes.

Some years ago after extensive hearings and investigations Congress passed a law greatly strengthening the FMC's power to deal with this pernicious practice.

It has come to my attention recently that there may be other practices in our international liner trades that could have the same effect as rebating.

One of these practices is quoting rates to shippers that are not in the carrier's tariff with the understanding that the rates will not be filed until the cargo is booked. These rates may be quoted weeks or even months before the cargo is shipped. Meanwhile, other carriers and shippers have no knowledge of the quoted rates.

Other practices include narrowly drafted commodity rates that can be used by one shipper; and the abuse of shipping act provisions which permit a carrier to correct a clerical or administrative error in its tariffs after the shipments take place.

Either way, when these kinds of practices form part of a general pattern, the integrity of our tariff filing and publishing laws is undermined. If tariffs do not really contain the rates that a carrier is offering, is there any valid reason to continue to require their filing and publication?

I would hope therefore that the FMC will aggressively and vigilantly prevent any practices which undermine the integrity of our tariff filing and publication requirements.

STATEMENT OF HON. MARK O. HATFIELD, U.S. SENATOR FROM OREGON

Senator HATFIELD. Mr. Chairman, Senator Inouye, it is a great pleasure for my good friend and colleague, Senator Packwood, and me to be able to present to you former mayor of Portland, OR, Mr. Frank Ivancie, as the nominee of the President to the Federal Maritime Commission.

Mr. Chairman, let me just summarize briefly a resume that you have already had presented in writing to you, that demonstrates that Mr. Ivancie is well-prepared for this post, having an excellent educational background at the University of Minnesota, University of Oregon, Portland State University; having engaged in the art of teaching and administering in the public schools; having served for 9 years as an assistant to Mayor Terry Schrunk of Portland and, as that chief assistant, having had assigned to him many times the responsibility to deal with matters at State level.

During his time as assistant to Mayor Schrunk, I served at that time as the Governor of the State, and throughout that period he had many contacts with the State agencies representing the city of Portland.

Frank went on then to be elected to the city commission four times, 4-year terms each. And I might comment that I believe, Portland is one of the two remaining major cities in America that have maintained the commission form of government. I would love to debate that issue but at the moment, I will restrain myself. I think the time is long overdue to get rid of that system, but as long as we have it, let me remind the committee, in that form of city government a commissioner has a far different role to play than a councilman in the mayor-council form or in other forms of city government.

During the time that he served on the commission, and then during his 4 years as mayor, he administered—actually administered—the programs of every department of city government: fire, police, parks, financial, recreation, all of the various parts of city government. So he is well versed in the administrative role in city government.

But also in that role, he had many opportunities to help in the maritime development of our city of Portland, which is the largest dry cargo port of the Pacific coast, and has many other activities of ship repair and other such maritime programs.

He also is very active in the professional world of the League of Oregon Cities, the National League of Cities, the Council of Mayors, the Conference of Mayors, the Conference of Japanese-American Mayors. And, representing a Pacific Rim State, he extended the State's relationships to Japan, in particular Korea, Taiwan, and all the Far Eastern countries, with many trade missions, and many activities involved in those associations.

Since leaving the post of mayor of Portland, he has established Ivancie & Associates, which deals in international trade matters, and thereby has developed this extraordinary background.

It is a privilege to be here this morning to introduce to the committee former mayor, long-time friend, and lifelong very active Democrat Frank Ivancie for the Democratic position post on the Maritime Commission, and to urge the committee's approval of him for that post.

Senator STEVENS. Thank you very much.

Senator Packwood, as former chairman and member of this committee, we welcome you to introduce your colleague.

STATEMENT OF HON. BOB PACKWOOD, U.S. SENATOR FROM OREGON

Senator PACKWOOD. It is good to be back again.

Mr. Chairman, there is little I can add to what Senator Hatfield has said about Frank Ivancie, except to say this. There is probably no one in local government that Senator Hatfield and I dealt with over a longer period of time as Senators than Frank Ivancie. Because Mark was very right about our form of government. There, a city councilperson in charge of different areas, could deal directly with us and was responsible for that. You did not have to go to the mayor and then get permission from the mayor.

And Frank, on every occasion when he dealt with us, knew what he wanted, was clear in what he asked; he understood what he asked, and he kept his word. And, by and large, we dealt orally on many of these. And in this business when you have got somebody who knows exactly what it is they are after and who will keep their word as to what they are after and not want to inch forward and inch forward and inch forward when they have asked for A, B, C and you get it, and then they want D, E, and F, you come to greatly appreciate.

As Senator Hatfield said, no one can serve on the Portland City Council or as mayor of Portland without being intimately involved with maritime affairs. Trade is a large employer in Oregon, about one job in six primarily or secondarily related to trade—imports or exports. And Frank, in his capacity as mayor, while the city of Portland was our principal port, was very well versed with our coastal ports of Astoria and Coos Bay and very well versed with all of the river ports on the Columbia River, both on the Oregon and the Washington side.

Very few people will come to a position in the Federal Government as well qualified and with as much background in the areas for which he will be responsible as Frank Ivancie, and I am delighted to have a chance to second his nomination.

[The statement follows:]

STATEMENT OF HON. BOB PACKWOOD, U.S. SENATOR FROM OREGON

Mr. Chairman, as a member of this committee, I am delighted to be here today to demonstrate my strong support for the nomination of Frank Ivancie to be a Commissioner of the Federal Maritime Commission.

By way of introduction, Frank Ivancie has been a well-known figure in Oregon politics since 1967 when he was first elected to the Portland City Council. After serving 14 years on the Portland City Council, Frank Ivancie served as the mayor of Portland until 1984. For almost 20 years, Frank Ivancie has been in public service.

During Frank Ivancie's tenure in office, he was actively involved in promoting increased international trade. Frank Ivancie's persistent and aggressive guidance was instrumental in opening new trade doors for Oregon.

In conjunction with his interest in foreign trade, Frank Ivancie has also shown indepth knowledge and interest in port and maritime issues. Frank Ivancie is well aware of the importance of a strong and sound maritime policy. He knows firsthand how dependent we are on regular ocean transportation services at fair and reasonable rates. He understands that our U.S. maritime carriers and shippers need to have a coherent legal and regulatory environment that is conducive to international competition.

Frank Ivancie has the experience that is needed to be an effective commissioner. I know I do not need to impress upon him the significance of this job—he is well aware of its importance not only for America's commerce, but also for America's defense and America's future.

Again, I welcome this opportunity today to show my support for Frank Ivancie's nomination.

Senator STEVENS. Mr. Ivancie, you come very highly recommended to the committee and we thank our colleagues for coming to present you to us.

I do not know what your plans are, but it would be my plan now to call Mr. Hickey to come up and join Mr. Ivancie.

I have a statement from Senator Paul Laxalt. As we all know, he is in the Philippines with the President, and he states:

> I sincerely regret I am not able to be with you today to personally express my unequivocal support for Ed Hickey as Commissioner and Chairman of the Federal Maritime Commission.
>
> Indeed, it is rare when one has the opportunity to express support for not only a most capable and dedicated person, but a valuable personal friend. And that is the case today with Ed Hickey.
>
> I have personally had the pleasure and privilege of knowing and working with Ed for some 20 years dating back to when he was serving a fellow governor, Ronald Reagan.
>
> As I am sure you are aware, Ed's credentials and proven ability are superb. He has served with distinction in every endeavor he has undertaken. After serving in the Armed Forces, he, in 1964, became a special agent of the United States Secret Service. From 1969 to 1974 he was Executive Director of the California State Police. From 1974 to 1981 he was Acting Counselor for Administration, Assistant Director, Office of Security and Senior Regional Security Officer at the United States Embassy in London. And, of course, since 1981 he has loyally served our President as Deputy Assistant to the President and Director of Special Support Services and Assistant to the President, Director of Special Support Services and Director, White House Military Office.
>
> What is most remarkable, however, is that in addition to his professional activities, Ed Hickey is a real All-American person. He is a dedicated family man, active in church and community and fiercely loyal to his country.
>
> Again, I only regret I could not be with you in person to personally express my support for a most capable person and a man I am proud to call my friend—Ed Hickey.

Both of you come very well recommended to this committee by our colleagues, and we welcome you both here this morning. I have personally examined the security check that has been made on each of you. We have a statement here for each of you, Mr. Ivancie and Mr. Hickey. Would you like to present those statements now? We will print in the record the biographical statement and information requested from each of you as a nominee that we normally require as a procedure of this committee.

We would be happy to have your statements now.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF FRANCIS J. IVANCIE

620 NW Front, B-7, Portland, OR 97209.
Born: Marble, Minn., July 19, 1924.
Married. Action for divorce pending. Wife's maiden name: Eileen O'Toole.

Children: Name/year of birth: Celeste Borda/1957, Daniel A. Ivancie/1954, Francis J. Ivancie, Jr./1953, Gwen Berg/1951, Joan Sundholm/1952, John Ivancie/1956, Mary E. Ivancie/1960, Paul Ivancie/1962, Peter Ivancie/1965, Thomas Ivancie/1967.

Education: Virginia Jr. Col., 1944-1946—Assoc. of Arts, Univ. of Minn., 1946-1948—B.A., Portland St. Col., 1952-1953—Univ. of Or., 1956-1956—Master of Education.

Employment: (a) Ivancie & Associates, Inc.—Portland, OR—President—International Business, Trade, and Marketing Consultants—Jan. 1985—present, (b) City of Portland, OR—Mayor—1980-1984. (c) City of Portland, OR—Four times elected to four year terms on the Portland City Council—January 1967-November 1980, (d) City of Portland, OR—Assistant to Mayor Terry D. Schrunk—January 1957-December 1966, (e) School District No. 1—Portland, OR—Teacher—September 1954-December 1956, (f) Dept. of Defense—Shaftsbury, England—Teacher/Principal—September 1953-June 1954, (g) Orenco School District—Washington County, OR—Principal—September 1952-June 1953, (h) School District No. 1—Burns, OR—Teacher—September 1948-June 1952.

Government experience: As Mayor and City Commissioner I have administered at one time or another every major city bureau: fire, police, water, parks, general services and fiscal administration. (The city has a budget of $750,000,000 and 4500 employees.)

In my capacity as an elective official I have served on numerous task forces and committees (city, state, metropolitan, bi-state, and Japan/American) and on the board of the regional council of governments. I have worked with governors and the state legislature on matters of concern to the city and the state. For example, it was largely through my efforts that the legislature repealed the state's unitary method of taxation on multi-national firms, a system that had been a significant impediment to foreign investment in Portland and Oregon.

I have also worked with members of both Houses of Congress and various federal departments and regulatory agencies on local, state and multi-state issues. On the local level, a case in point is the Bull Run hydroelectric project which required working with the US Forest Service, the Federal Energy Regulatory Commission, and members of the US House of Representatives. On the multi-state level, a case in point is my work with members of the US Senate in the preparation of the Northwest Regional Power Bill.

During my tenure as Mayor the City maintained its triple "A" bond rating while the State's bond rating fell. (Portland was one of the few cities in the nation to retain this rating.) It should be noted that I have appeared before bonding agencies on numerous occasions both in connection with the city's bond rating and on the sale of city bonds.

Finally, I have worked with overseas governments, corporations and public officials in both the Pacific Rim and Europe and with business groups and public officials in the State of Alaska to promote the increased trade with Portland and the State of Oregon.

STATEMENT OF FRANCIS J. IVANCIE

Mr. IVANCIE. Thank you, Mr. Chairman. I am honored to be nominated by the President of the United States as a member of the Federal Maritime Commission and to appear before this committee as a first step in seeking the approval of the U.S. Senate.

I believe that I would bring to the Federal Maritime Commission these qualifications, and that I would make the following contributions.

First and foremost is a high level of interest, enthusiasm and dedication. International relationships and international trade have been lifelong special interests of mine. And international maritime commerce from ancient times until today and into the future is the bond that makes our international community a reality.

Next, I have been a participant in international maritime commerce on a local level for many years. Between college degrees, I worked on the Portland public docks. During my tenure as assistant to Mayor Schrunk, I have served as liaison to the Portland

Dock Commission, a city activity. I also participated in the transition of the port from breakbulk, to containers, to specialized cargo.

As an elected city commission member and as mayor, I was involved in the promotion and growth of our Pacific Rim trade—Alaska, Hawaii, and the Orient. I organized and led a number of trade missions to Alaska, Japan, China, Korea, Taiwan, and Hong Kong; also to Europe and Mexico.

Finally, I would bring to the Federal Maritime Commission the background of an elected official—the public sector—with excellent credentials in building public/private coordination and cooperation in the international trade arena. I have been in the same activity on the private side since January of this year through my consulting firm, Frank Ivancie & Associates, Inc., an international business, trade, and marketing group.

I understand that my function as a Maritime Commissioner would be to administer the laws and the basic policies behind the laws that Congress adopts—thoughtfully, conscientiously, and fairly.

I approve and support the objectives of the Shipping Act of 1984—of free and fair world trade, with the means to enforce its concepts and goals.

Thank you.

Senator STEVENS. Thank you very much, Mayor. It is nice to have you here with us.

[The following information was subsequently received for the record:]

POST-HEARING QUESTION OF SENATOR PACKWOOD AND THE ANSWER OF MR. IVANCIE

The question whether TWRA prevent its members from exercising its right to take independent action is precisely one of the issues the Commission has designated for investigation in Docket No. 85-18, Member Lines of the Transpacific Westbound Rate Agreement—Possible Violations of the Shipping Act of 1984. Failure to allow member lines to exercise their right to take independent action would, of course, constitute a violation of the Shipping Act of 1984.

Reports of a tacit agreement among TWRA members not to exercise I.A. (Order of Investigation, pp. 17-18) prompted in part the Commission's investigation. These reports appeared to have been confirmed by telexes from carriers describing TWRA meetings. Although TWRA subsequently resolved, on March 27, 1985, that each of its members "has and always has had the absolute and unqualified right of independent action as to any TWRA rate or service item" (Order of Investigation, p. 22) the Commission nevertheless determined to investigate whether an agreement to discourage or restrict independent action was ever reached, and, if so, whether it is still in effect. Further comment regarding my opinion on this issue would be inappropriate, as I expect to be ruling upon this matter as a member of the Commission.

The status of the proceeding is that the matter has been referred to a Commission administrative law judge, the discovery phase of the proceeding is under way, and hearings are tentatively set to begin in December 1985. The Commission ordered the administrative law judge to issue his initial decision on or before July 15, 1986, at which time it would be reviewed by the Commission.

CITY OF PORTLAND, OR,
COMMISSIONER OF PUBLIC UTILITIES,
October 15, 1985.

Hon. TED STEVENS, CHAIRMAN,
Subcommittee on Merchant Marine, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS. I take pleasure in writing to support the candidacy of Francis J. Invancie for appointment to the Federal Maritime Commission.

My endorsement is based on personal experience in serving with him on the Portland City Council. During Frank's term as Mayor, his administation spearheaded efforts to recruit new business to Oregon and to retain many existing businesses in our state. Central to that effort, was Frank's personal commitment in leading several trade delegations to the Far East. Much of the credit for Oregon's having recruited several new high technology firms from Japan must be given to former Mayor Ivancie for his work with officials from the Japanese government and business community.

As the City of Portland's Commissioner for Transportation, I know that Frank Ivancie understands the major international transportation network which links this country with other nations in current and emerging international markets. While we have not always agreed politically, I have always found Frank to be straightforward, dedicated and hardworking. I believe he would be an excellent Maritime Commissioner and strongly urge the members of your committee to confirm his appointment.

Sincerely,

MARGARET D. STRACHAN.

Senator STEVENS. Mr. Hickey.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF EDWARD V. HICKEY, JR.

Address: 5925 Kimble Court, Falls Church, Virginia 22041.

Date and place of birth: 15 July 1935 in Dedham, Massachusetts.

Martial status: Married to Barbara Ann Burke on June 6, 1959.

Names and ages of children: Edward V., III (25); Michael F. (24); Joseph G. (22); Paul V. (21); John D. (20); David T. (19); Daniel J. (15).

Education: Boston College 1956-1960; received a Bachelor of Science Degree in Business Administration.

Employment record: Juvenile Officer with the Massachusetts Youth Authority 1960-1964; Special Agent with the United States Secret Service in the Boston Field Office and at Headquarters, Washington, DC from January 1964-April 1969; Director of Security for the State of California, Sacramento, CA from April 1969-January 1971; Executive Director, California State Police, Sacramento, CA from January 1971-January 1975; Assistant Director for Protective Security, United States Department of State, Washington, DC from January 1975-July 1978; Senior Regional Security Advisor, United States Embassy, London, England from July 1978-January 1980; Acting Counselor for Administration, United States Embassy, London, England 1980-January 1981; Deputy Assistant to the President and Director, White House Military Office from January 1981-February 1982; Assistant to the President and Director, White House Military Office from February 1982-present.

Government experience: As stated above.

STATEMENT OF EDWARD V. HICKEY, JR.

Mr. HICKEY. Good morning, Senator.

I appreciate President Reagan's expression of trust and confidence in nominating me to be a Commissioner of the Federal Maritime Commission and, if confirmed, to be its Chairman.

I believe that this will be one of the greatest challenges of my career in Government service. You may rest assured that I will do everything in my power to meet this challenge and to justify the President's trust in me.

The former Chairman of the Commission, Alan "Punch" Green, left a legacy of good will throughout the entire maritime industry, Congress, and the Commission itself. He guided the Commission through the final stages of the legislative process which resulted in the Shipping Act of 1984 and oversaw the initial implementation of this landmark legislation. I hope to build on this legacy and lead the Commission through what I view to be its major role during the next few years—mainly enforcement of the 1984 act and the assessment of the impact of the act on the ocean transportation industry.

As you are aware, Mr. Chairman, the Shipping Act of 1984 significantly altered the Commission's regulatory role. The Commission is no longer the disincentive it may once have been to the ocean carrier industry. Carriers now have considerable more flexibility to structure their commercial arrangements, and are able to effectuate these relationships in an expeditious manner.

That flexibility is not unfettered, however. To ensure against possible abuses, Congress placed in the 1984 act a series of prohibited acts to guide the conduct of those involved in our water-borne foreign commerce. Obviously, for the 1984 act to work well at all, these proscribed activities must be eliminated to the fullest extent possible. One of my first priorities, if confirmed, will be to examine the FMC's enforcement capabilities and, if necessary, take appropriate steps to strengthen them.

I believe that my prior experience should prove particularly valuable in this regard. I have been involved in various law enforcement activities for a number of years. I have also served in several adminstrative positions, during which I was responsible for the performance of a large number of subordinates. I believe this has given me the requisite tools to be a competent and effective administrator of the FMC.

Another of the Commission's principal responsibilities in the coming years will be the collection and assessment of data on the impact of the 1984 act on the ocean shipping industry. I understand that the Commission has begun this process by initiating a pilot study, by obtaining access to commercial data bases, and by coordinating those efforts with the Department of Justice and the Federal Trade Commission. These efforts must be pursued vigorously.

Ultimately, Congress will have to pass judgment on whether the 1984 act is achieving its goals or whether further modifications are necessary. When that time comes, I will have done everything possible to ensure that Congress has the necessary information to make an informed judgment.

Mr. Chairman, I do not purport to be an expert on all aspects of the ocean transportation industry. Nevertheless, I am aware of the fact that the U.S.-flag merchant fleet has been in a state of decline for a number of years. I am also aware that Congress expressly stated that one of the goals of the Shipping Act of 1984 is "to encourage the development of an economically sound and efficient U.S.-flag liner fleet capable of meeting national security needs." While the Commission cannot by itself reverse the decline of our merchant fleet, I do believe that it should use whatever tools are at its disposal to encourage such a result.

As you know, section 13(b)(5) of the act allows the Commission to retaliate against a foreign government which unduly impairs the access of a U.S.-flag carrier to its trades with other foreign countries. It seems clear that with the introduction of round-the-world service patterns, the foreign cross trades will become an increasingly important element of a U.S.-flag carrier's service. The Commission also administers section 19 of the Merchant Marine Act, 1920. This provision complements section 13(b)(5) by allowing the Commission to take action against unfavorable conditions in our foreign trades.

As a Commissioner and Chairman of the Federal Maritime Commission, I will do everything in my power to quickly and aggressively employ these statutory weapons when the circumstances warrant it.

The job of Chairman of the Federal Maritime Commission demands dedication and commitment. I am, however, no stranger to hard work and I will devote my considerable energies to the task at hand. In the process, I hope to have a long and pleasant working relationship with your committee and staff.

I will be happy to answer any questions you might have, Senator.

Senator STEVENS. We welcome your statement, Mr. Hickey. I am convinced of your dedication and commitment to the task ahead of you. We are quite anxious to have the results of your examination as to what further Congress might do to assist in reversing the decline of the maritime industries.

You also have an extremely difficult role to determine how to enforce the 1984 Shipping Act. I wish you good luck.

There have been no objections filed to the nominations by the committee to my knowledge. So we welcome you and look forward to working with you.

Mr. IVANCIE. Thank you, Senator.

Mr. HICKEY. Thank you, Senator.

Senator STEVENS. Thank you very much.

Mr. John Gaughan, who is the nominee to be the Maritime Administrator.

[Pause.]

Senator STEVENS. Let me welcome you and introduce you myself, John. I am happy to have you here. I think all of us are familiar with your role as the Deputy Assistant Secretary for Governmental Affairs of the Department of Transportation. You come very highly recommended to us. And as a graduate of the Coast Guard Academy and also of Maryland Law School, you are most qualified for this position.

I am happy to have you here, and would be pleased to have your statement.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF JOHN ANTHONY GAUGHAN

Address: 5301 Roosevelt Street, Bethesda, Maryland 20814.

Date and place of birth: March 29, 1947, Washington, DC.

Marital status: Married to Janelle Williams Gaughan.

Children: None.

Education: U.S. Coast Guard Academy, New London, CT, 1965–1970, Bachelor of Science Degree; University of Maryland Law School, Baltimore, MD, 1973–1977, Juris Doctorate.

Employment record: Deputy Assistant Secretary for Government Affairs, U.S. Department of Transportation, Washington, DC 20590, March 1985–Present; Director, Office of External Affairs, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590, October 1984–March 1985; Congressional Relations Officer, Office of Assistant Secretary for Governmental Affairs, U.S. Department of Transportation, Washington, DC 20590, June 1981–October 1984; Attorney-Advisor, Office of the General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, April 1981–June 1981; Attorney-Advisor, Office of Policy and Planning, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, January 1981–April 1981; Counsel to the Chairman, Federal Maritime Commission, 1100 L Street NW., Washington, DC 20573, December 1979–January 1981; Attorney, U.S. Coast Guard Headquarters, Washington, DC 20590, August 1978–October 1979; Chief, House/Senate Liaison Staff, U.S. Coast Guard Headquarters, Washington, D.C. 20590, April 1973–August 1978; Active Duty at Sea (USCGC CHNCOTEAGUE and USCGC PT. MARTIN), U.S. Coast Guard, August 1970–April 1973.

Government experience: Listed above.

STATEMENT OF JOHN GAUGHAN

Mr. GAUGHAN. Thank you very much, Mr. Chairman.

If I might, Mr. Chairman, I would like to point out that I also was a resident of the State of Alaska when it was still a territory. I was also very young at the time.

Senator STEVENS. You have distinguished yourself early in life.

Mr. GAUGHAN. Mr. Chairman and members of the committee, I am John Gaughan, and I appear before you today as the Administrator-Designate for the Maritime Administration.

I do have a brief opening statement, but before I give that, Mr. Chairman, I would like to acknowledge the presence of my wife, Janelle, and other members of my family in the audience.

Senator STEVENS. We welcome you here.

Mr. GAUGHAN. Mr. Chairman, it is a profound honor for me to have been nominated by the President of the United States to take on this responsibility. I will say at the outset that if I did not have a firm belief in the vital role the maritime industry plays in the national defense and trade policies of the United States, I would not be sitting before you today.

There is no doubt the Maritime Administration and the industry as a whole face many challenges, but I am committed to using all my efforts to meet those challenges head on, and hopefully with the help of the Congress and industry, to overcome many of them.

I view my responsibility to be not only a problem-solver but also and just as importantly, to be an effective spokesman for legitimate maritime policies and goals.

Mr. Chairman, there is a mandate to all cadets at the Coast Guard Academy. It is etched in the floor of Chase Hall and reads: "Who lives here reveres honor, honors duty." I have tried to live by those words and I pledge to continue to follow its tenets in my new position.

Mr. Chairman, I pledge my full support to working with your committee and the Congress as we collectively attempt to deal with the challenges before us.

I will end by simply stating again the honor that I feel in having this opportunity to appear before you.

Senator STEVENS. Thank you very much. Again, John, there will be some questions that will be submitted to you. We would ask you to respond to them as quickly as possible.

I have been asked to inquire about two things. One is what your policies will be with regard to the actions that have been taken in the past by Marad in the general area of administrative rulemaking which had the impact of early broad-scale changes, almost to the point of legislating. These are the changes that are involved in the trade route redesignation, the general order 80 rulemakings, or that type of concept.

We would like to be consulted a bit more on those actions. I think they have an impact upon the overall goal of this committee and the Congress to try to deal comprehensively with the problems of the maritime industry, and we would hope that we might see forthcoming from Marad some legislative suggestions to deal with the problems of the Maritime Administration.

Have you been able to look into this area sufficiently to have made up your mind about some of those issues.

Mr. **Gaughan**. Mr. Chairman, we have a commitment to the committee, particularly in the area of the trade route redesignation, to consult with the committee, share with them the results of the comments received from the notice that was published prior to any final action. And I make a personal commitment to you, sir, that in that area in particular, we will consult.

As you are aware no doubt, Senator, the administration has proposed a number of maritime promotional bills which have met with resistance in certain quarters. I am particularly aware of your efforts and Senator Inouye's efforts to meet with the industry and try to come up with comprehensive solutions.

I would like to join in that effort and see if we can't work together.

Senator **Stevens**. When the time comes and it looks as though we might be ready to make some progress, we would welcome your participation to see what we can do.

I am referring in particular, to the double subsidy rulemakings, where the subject matter is the result of legislation that this committee has acted on. To have major changes in existing policy of Marad before we can hold a hearing on the matter, seems inappropriate. Marad should delay action, as requested by Senator Inouye and me. We hope that we can develop a little more coordination.

You will have, if you become Adminstrator, considerable authority to make these sweeping changes, but they could well undermine what we are doing in terms of trying to work with the industry itself to eliminate some of the opposition from one sector of the industry to initiatives that might improve the health of another sector.

We believe there ought to be greater coordination between the changes that are proposed administratively and those that we seek to accomplish through legislation.

Knowing you and having worked with you in the past, we feel that we will have a different relationship with you, and we want to encourage you to try to work with us as we try to find some way to reverse the decline of these industries.

Do you think you can take that on?

Mr. **Gaughan**. Mr. Chairman, as I said in my opening statement, I view this as very definitely a collective effort, and I would really hope that my prior relationships with the committee and with the industry will allow both myself and the agency to be full participants in your efforts so that we are working together and not at cross purposes. This, quite frankly, has been one of the reasons, I think, that we have had problems in the past. The industry itself has not been able to unify. I would like to work toward a goal of unified action.

Senator **Stevens**. Good. We look forward to that relationship and to an improvement of the relationship between this committee and Marad as you become the Administrator.

Mr. GAUGHAN. You have my personal commitment on that, Senator.

Senator STEVENS. Thank you very much.

Mr. GAUGHAN. Thank you, sir.

Senator STEVENS. We will submit to you questions from other Senators, and will be taking these nominations up as quickly as we get the responses.

Thank you very much.

[Whereupon, at 10:45 a.m., the hearing was adjourned.]

[The following information was subsequently received for the record:]

POST-HEARING QUESTIONS OF THE CHAIRMAN AND THE ANSWERS OF MR. GAUGHAN

Question 1. In the 98th Congress, legislation was enacted to ensure that only economically viable projects were granted Title XI loan guarantees. Is additional legislation necessary to eliminate the risk on new equipment, funded by Title XI loans, adding to the overcapacity problem?

Answer. New legislation with respect to limiting Title XI loans is not necessary. The Title XI regulations have been amended to require that MARAD consider the needs in a particular market segment for new or additional capacity, including any impact on existing equipment for which a guarantee is in effect. MARAD also considers the market potential for employment of the vessel over the life of the guarantee. In addition, to be approved a project must be able to demonstrate a minimum 10 percent internal rate of return, based on total project cost.

There are no pending Title XI applications for inland equipment. During fiscal year 1985 MARAD approved only one application for inland vessels as part of a purchase of existing Title XI equipment in order to avert a default. However, when the purchaser declined to assume the outstanding Title XI debt, the commitment was cancelled. Therefore, no additional inland tugs or barges were financed with the aid of Title XI guarantees in fiscal year 1985.

Question 2. What happens to the barges whose owners have been forced to default on their Title XI loan payment?

Answer. After a default on inland barges, arrangements are made for the transfer of title or control of the equipment to MARAD. This is accomplished either through negotiations with the shipowner or thorugh judicial process.

MARAD can be stayed from foreclosure in a Chapter XI bankruptcy filing by a barge operator. As a result an operator in Chapter XI could operate defaulted equipment without MARAD being able to prevent it. If MARAD's current efforts to amend the bankruptcy laws are successful this undesirable situation will be remedied

It is MARAD's policy to oppose attempts by defaulting shipowners to continue to operate the vessels subsequent to a default. But temporary operation of defaulted vessels may occasionally be necessary as part of a workout agreement.

Question 3. If they are put back into the domestic market, it seems obvious to me that doing so will not reduce the glut of equipment. Is some sort of scrapping program or overseas sale of this equipment feasible? Will legislation be needed for this purpose?

Answer. When MARAD acquires barges after a default, the vessels are offered for sale, after advertising, to the highest bidder. MARAD reserves the right to withdraw the equipment from sale, if the bids received are not favorable. Priority is given to potential purchasers with overseas projects. Domestic purchasers have been required to scrap older barges as a condition of the MARAD sale.

MARAD has embarked on a program to identify foreign markets that need and can use Mississippi River and domestic offshore service vessels to meet their transportation needs. MARAD intends to offer its own repossessed vessels to these potential buyers and to assist commercial interests in selling their existing equipment to these markets. MARAD hopes, by encouraging both foreign sales and scrapping, to reduce the level of excess equipment in the domestic market. We do not think that legislation is needed at this time.

Question 4. At this time, is there a consistent standard for treatment of vessel owners who cannot make their payments, or is each case handled on an ad hoc basis? Is there a problem arising from the competitive advantage some MARAD-backed operators may gain over those operators who receive private financing with less favorable "loan forgiveness terms?"

Answer. The only direct financial assistance MARAD is able to give vessel owners who cannot make their payments are advances. The new Title XI regulations impose stringent criteria for advances, including requirements that the shipowner demonstrate that its problems are of a short-term duration (less than two years) and that with the assistance the shipowner would be able to overcome its temporary difficulties. MARAD carefully reviews the shipowner's current financial records and financial projections, which represent the basis for the expectation that the shipowner will recover. The advances are required to be repaid with interest—there is no "loan forgiveness." Private lenders are often able to grant principal and interest deferrals and to grant outright loan forgiveness. There is therefore, no competitive advantage to Title XI operators.

POST-HEARING QUESTIONS OF SENATOR PACKWOOD AND THE ANSWERS OF MR. GAUGHAN

Question. The Maritime Administration opened an office in Portland a couple of years ago. As I recall, you were instrumental in helping to make the decision. I would like to commend you and I appreciate your assistance in that matter. In what ways do you see the Maritime Administration increasing the activity of its Portland office?

Answer. MARAD activity in Oregon is anticipated to increase. The Portland office is responsible for implementing our marketing and port and intermodal activities within the area which includes the Columbia-Snake River system. The Portland office, in conjunction with our program offices in Washington, is working closely with the Port of Portland on a MARAD/industry research project with U.S. Customs for the development of the Automated Commercial System. In addition, I recently met with Port of Portland officials to discuss a variety of topics and anticipate working closely with them in the future.

Two Ready Reserve Force [RRF] ships are scheduled to be outported there within the next few months. In addition, there is a possibility that additional RRF ships to be acquired will be berthed in Portland.

Lastly, an RRF crane ship is scheduled to be converted in the Dillingham yard very shortly.

Question. It is my goal to work toward increasing the number of U.S.-flag carriers serving Oregon.

Do you have any plans with this regard?

Would you be willing to work with me in achieving this goal?

Answer. We certainly will strive to increase U.S.-flag vessel participation in the movement of import and export cargoes wherever and whenever possible. I cannot offer a specific plan for Oregon at this time but I look forward to working with you to achieve this goal.

POST-HEARING QUESTIONS OF SENATOR INOUYE AND THE ANSWERS OF MR. GAUGHAN

Question. On September 24 Senator Stevens and I wrote to you requesting your reply to a mailgram we had received from the CEO's of 7 U.S.-flag shipping lines.

Their mailgram requested we contact MARAD to express their concern about the unlimited and unfair competition to U.S.-flag operators which will occur under a March 11 Request for Proposal inviting submissions of offers from foreign owners of currently foreign-flagged ships, whereby those vessels could be acquired for our Ready Reserve Force.

The U.S.-flag operators cite several reasons why this foreign competition would be unfair.

Several weeks ago when my staff met with the acting head of MARAD, he pointed out that MARAD had not replied to the request Senator Stevens and I made, and that the questions raised by the mailgram might be raised at this hearing, if the Committee had not received MARAD's reply.

We have not received the reply. Are you aware of the mailgram, and can you discuss the issues it raises?

Answer. A letter to you responding to the issues raised by the mailgram was signed by Garrett E. Brown, Jr., the Acting Deputy Maritime Administrator, on October 16, 1985. A copy of that letter is attached.

U.S. Department of Transportation,
Maritime Administration,
Washington, DC, October 16, 1985.

Hon. Ted Stevens,
U.S. Senate, Washington, DC.

Dear Senator Stevens: Your recent letter requests our comments on a mailgram from the CEO's of several U.S.-flag steamship companies pertaining to a Request for Proposals (RFP) which provides for the possible acceptance of foreign-built ships.

By way of background explanation, it should be noted that the March 11, 1985, RFP was the fourth annual solicitation for ships to be included in the Ready Reserve Force (RRF) program. The first two RFPs identified six types of ships, were restricted to U.S.-built ships, and involved a total of $62 million in outlay authority.

In evaluating the U.S.-built offerings under those first two RFPs, there were no heavy-lift or RO/RO ships offered that would meet both the technical standards and/or the budget limits provided MARAD by the Navy. However, as a result of these 2 solicitations, MARAD acquired, on behalf of the Navy, a total of 25 ships including 1 LASH barge vessel from 3 U.S.-flag carriers.

Recognizing the very limited availability of U.S.-built RO/RO and heavy-lift ships and the mounting requirements for these types of ships in the RRF, it was decided during the third solicitation to include foreign-built RO/RO's as candidates. The result of the third solicitation was the acquisition of five foreign-built RO/RO ships for a total budget price of $52 million.

The current RFP restricts non-U.S.-built ships to RO/RO and heavy-lift types with the remaining four types restricted to U.S.-built ships. The basic constraint in acquiring ships for RRF assignment remains the limited funding available with which to acquire the best possible combination of ships and the best possible prices in the interest of the U.S. Government.

As we seek to acquire additional ships for the RRF program, we will continue to keep the U.S.-built ships in the forefront in order to support the U.S.-flag shipping community. However, as stated, the availability of U.S.-built ships and the costs to acquire these ships must, of necessity, be factored into the overall ship acquisition strategy.

In the event that foreign-built ships are acquired, such ships must meet Coast Guard requirements and American Bureau of Shipping specifications. This could bring revenue to U.S. shipyards because, in the event any repair or conversion work is necessary to meet any requirement, the work must be accomplished in a U.S. shipyard or repair facility.

I trust this is responsive to your letter. Should you require any additional information, please contact me at your convenience.

Sincerely,

Garrett E. Brown, Jr.,
Acting Deputy Maritime Administrator.

Question. Several years ago Congress found it necessary to enact an amendment to the law (the Snyder Amendment) to allow a subsidized operator to suspend ODS for not less than a year to operate its vessels in a foreign trade without restrictions and thereafter to return to subsidized operations.

Answer. Doesn't MARAD's proposal to rescind General Order 80, change the law (i.e., the Snyder Amendment)? If so, how can an agency amend an Act of Congress?

General Order 80 (46 CFR 281.11–17), covers MARAD regulations governing procedures for approving non-subsidized voyages by a subsidized *liner* operator or by a related company. These regulations require that a subsidized liner operator obtain approval of MARAD before it or a related company undertakes a non-subsidized voyage with a subsidized[1] or non-subsidized ship. A subsidized ship engaged on a non-subsidized voyage remains in the operating-differential subsidy agreement (ODSA) and returns to subsidized status upon completion of its approved non-subsidized service.

General Order 80 was issued in 1957 at the discretion of the agency. At that time, each ODSA contained a provision requiring express approval for subsidized operators to operate non-subsidized voyages. With the increase of applications under that provision of the ODSA during the 1950's, MARAD was prompted to promulgate General Order 80 in order to standardize the procedures for approving non-subsidized voyages.

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[1] A subsidized ship refers to a vessel that is covered by an ODSA and is eligible for subsidy.

MARAD's proposal to rescind General Order 80 would terminate the requirements for MARAD approval of non-subsidized voyages by subsidized liner companies.

MARAD's proposal to rescind General Order 80 does not change the law (*i.e.*, the Snyder Amendment). In MARAD's view the courts have made clear that the Snyder Amendment is in addition to existing law; see *American Maritime Association* vs. *United States*, 766 F. 2d 545, 564 n. 29 (D.C. Cir. 1985). Since General Order 80 was issued as a discretionary matter, it may be rescinded as a discretionary matter.

Further, although the Snyder Amendment covers both liner and bulk vessels, approvals have all involved ships of subsidized bulk operators. General Order 80 applies to liner operators only and was issued to standardize procedures for approving non-subsidized voyages.

In any event, MARAD's proposal to rescind General Order 80 is merely a Notice of Proposed Rulemaking, published in the Federal Register on October 7, 1985. Comments on that proposed rulemaking may be received until close of business November 21, 1985. MARAD will consider all comments responding to that notice.

Question. MARAD says it believes that if it rescinds General Order 80, so that subsidized carriers may offer unsubsidized service on other essential trade routes without its approval, any adverse economic impact on smaller subsidized and unsubsidized carriers would be minimal.

Has MARAD done any economic impact studies to support its conclusion?

Answer. No. The extent of participation by subsidized operators in non-subsidized voyages is difficult to assess. Since subsidy is designed to offset a major part of the cost differential that the U.S. operator suffers compared to its major foreign competitors operating on the subsidized trade route, MARAD believes the subsidized operator operating on a non-subsidized voyage would not have an unfair competitive advantage over a non-subsidized operator. MARAD has not, however, undertaken any economic impact studies because of the uncertainties regarding the specific circumstances in which unsubsidized service would be undertaken. For this very reason, MARAD requested comments from interested parties in its Notice of Proposed Rulemaking soliciting, in particular, specific examples of anticipated effects on cargoes and revenue resulting from possible non-subsidized operations by subsidized operators.

Question. MARAD says that a subsidized operator operating in an unsubsidized route: Would be operating at a cost disadvantage vis-a-vis other subsidized operators on that route. If this is so, why would a subsidized operator want to go off subsidy, and compete where it is at a cost disadvantage?

Answer. Although a subsidized operator making a non-subsidized voyage would be operating at a cost disadvantage compared with another subsidized operator receiving subsidy on that route, the non-subsidized voyage may, nonetheless, be a viable option. For example, there may be occasions when an operator finds itself with no, or marginal, employment opportunities for a particular ship. If that ship could operate efficiently, and is well suited to participate in another service where cargo is available, a non-subsidized voyage might be profitable. At the very least, it might offer breakeven employment for a ship that would otherwise be left idle (with resultant out-of-pocket lay-up costs) or underutilized.

THE AMERICAN WATERWAYS OPERATORS, INC.,
Arlington, VA, October 11, 1985.

Hon. JOHN C. DANFORTH,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The American Waterways Operators, Inc., the national trade association representing the U.S. barge and towing industry and small-to medium-sized shipyards, would like to express our support for the nomination of John A. Gaughan as Administrator of the U.S. Maritime Administration, and ask that this recommendation be entered in the hearing records.

We have worked with Mr. Gaughan since he began his service with the Department of Transportation in 1981. His understanding of our industry, his experience in the U.S. Coast Guard and in government service equip him well to perform effectively in this especially challenging position as a strong advocate of the U.S. maritime industry.

Additionally, Mr. Gaughan has been aggressive in opening channels of communications in an effort to resolve the serious problem of overcapacity in the American barge industry which, in large measure, has contributed to the economic woes of our industry.

AWO urges this Committee and the U.S. Senate to act favorably and expeditiously on the nomination of John Gaughan as Maritime Administrator.

Sincerely,

JOSEPH FARRELL,
President.

KENNETH J. HILL; VERNON L. GROSE; AND JOHN K. LAUBER; TO BE MEMBERS, NATIONAL TRANSPORTATION SAFETY BOARD

TUESDAY, OCTOBER 22, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 2:10 p.m., in room 253, Russell Senate Office Building, Hon. Nancy Kassebaum presiding.

Staff members assigned to this hearing: Macky Ayers, and Ruth Johnson, professional staff members; Steve Johnson, staff counsel; and Steve Palmer, minority professional staff member.

OPENING STATEMENT BY SENATOR KASSEBAUM

Senator KASSEBAUM. It is certainly a pleasure to welcome two colleagues here, for an introduction of particular pleasure, the aviation chairman from the House side, Congressman Norman Mineta, and Senator Alan Cranston from California. Welcome, Senator Cranston.

STATEMENT OF HON. ALAN CRANSTON, U.S. SENATOR FROM CALIFORNIA

Senator CRANSTON. Thank you, very much, Madam Chairwoman. I appreciate this opportunity to introduce John K. Lauber, who has been nominated to be a member of the National Transportation Safety Board. I have had the pleasure of meeting Dr. Lauber and I believe he possesses both the technical expertise to serve on the Board and the political sensibilities that make him a member of my party. I commend him warmly to the committee.

Dr. Lauber is a resident of California, presently serving as chief of the aeronautical human factors research office, NASA-Ames Research Center, Moffett Field. He has been associated with the NASA-Ames Research Center since 1973.

Dr. Lauber earned his doctorate in psychology at Ohio State University in 1969 and shortly thereafter began his professional career with the Federal Government at the U.S. Naval Training Devices Center, Orlando, FL. He is a licensed pilot and has extensive experience in working with flight personnel. I am very impressed with Dr. Lauber's cogent views on current priority needs in air transportation safety.

As a frequent flyer, as are virtually all Members of Congress, I am keenly aware of the stress placed upon our air safety system by extremely heavy traffic, crowded facilities and aging equipment in the air and on the ground. Dr. Lauber, I am pleased to say, has expressed a strong interest in examining such areas as the long-term effects of deregulation on air safety policy and practices, the effects of increasing automation upon the individuals responsible for the safety of aircraft, and the difficulties of transferring useful safety information to those ultimately responsible.

The National Transportation Safety Board is not limited to air safety alone. It is concerned with highway and rail safety as well. Dr. Lauber's considerable experience in the human factor in air safety will have great application to highway safety problems as well.

In particular, Dr. Lauber may be able to contribute to the Board's understanding of problems which arise as car and truck drivers begin to react to the new electronic warning devices which our advancing technology most surely will bring us.

Dr. Lauber also will bring to the Board an additional factor derived from his experience as a career employee of the Federal Government. It is to be hoped that he will contribute his prestige, expertise and professionalism to the Board in ways which will enhance the morale and performance of the present National Transportation Safety Board's staff.

This nomination comes before the committee at a very critical time in air transportation safety. This year has been a disastrous one for air safety for reasons ranging from terrorism and sabotage, to failure of equipment and safety systems. Certain jet engines appear to be failing in disastrous ways. Aging aircraft have suffered serious failures of vital components.

Nearly identical incidents of failure end differently depending, apparently, on pilot performance during those last seconds before it is too late to avert a fatal crash. Sharply increased airline competition raises suspicions, none of which are substantiated to my knowledge, that necessary maintenance and the need for increased safety routines have been curtailed surreptitiously. And our air traffic control system has been in a state of crisis predating President Reagan's firing of the striking air traffic controllers in 1981.

All of these concerns, some founded on fact and some on apprehension, are weakening travelers' confidence in our air transportation system. A newly energized National Transportation Safety Board, aided by the new members being considered today, including Dr. Lauber, I hope will deal efficiently and wisely with these issues.

I know you have expressed concern about air safety, Madam Chairwoman. I appreciate your work on these matters. I have said that this is a time of crisis for transportation safety, but it is also a time of exciting opportunity.

And I know it must be heartening to you to have the opportunity to recommend confirmation of such outstandingly qualified individuals as Dr. John Lauber to be a member of the National Transportation Safety Board. I thank you.

Senator KASSEBAUM. Thank you very much, Senator Cranston. Congressman Mineta.

STATEMENT OF HON. NORMAN Y. MINETA, U.S. REPRESENTATIVE FROM CALIFORNIA

Mr. MINETA. Thank you very much, Madam Chairman. Chairman Kassebaum and members of the Commerce Committee, it is a pleasure to join with our distinguished Senator from California, Alan Cranston, in introducing to this impressive panel Dr. John Lauber who appears before you as the President's nominee for the National Transportation Safety Board.

In my 10 years of membership on the House Aviation Subcommittee, and now as its chairman, I have worked closely with the National Transportation Safety Board and have benefited from both its investigative skills and its substantive recommendations for improving aviation safety.

I first met Dr. Lauber almost 2½ years ago, and I was as impressed then as I am now by the expertise that he would bring to the NTSB. The members of the committee are no doubt aware of the extent and depth of Dr. Lauber's technical abilities from his 12 years of research into various aspects of the role that human factors play in air carriers' operations and safety.

The specific projects that Dr. Lauber has worked on at the NASA-Ames Research Center, in supervisorial as well as in design and implementation capacities, have involved many of the same concerns, issues and parties as those participating in NTSB accident investigations and safety recommendations.

Beyond the technical side, I have also found John Lauber to possess a high degree of integrity as well as great patience. And both of these traits should put him in good stead as a Safety Board member.

In addition, he would bring a sympathetic, understanding and easy manner of dealing with people, which could only be an asset in investigating human tragedies, as the NTSB must.

In sum, I would conclude by asking the committee to most favorably recommend Dr. John K. Lauber's nomination to the National Transportation Safety Board to the full Senate. He is most qualified to serve the public on the NTSB as a technical expert. He is also a man of integrity, a man of patience and has a way with people and is a fellow Californian.

Thank you very much.

Senator KASSEBAUM. Thank you very much. It is a pleasure to have both of you with us for this introduction and, now, if I might ask the other two nominees to come forward, we will hear all three together.

Thank you, Congressman Mineta, for coming over. The hearing today is on the nomination of Vernon L. Grose, Kenneth J. Hill and John K. Lauber to be members of the National Transportation Safety Board.

We have heard some interesting comments from both Senator Cranston and Congressman Mineta on the importance of this position. Just a few weeks ago, I held a 6-hour hearing on aviation safety. There has been a great deal of interest from the public, as well as from those professionally engaged, in the whole question of aviation safety.

The National Transportation Safety Board has come to play a very important role in this field. Over the 7 years that I have been on the Aviation Subcommittee, I have developed an enormous respect for the role that it plays.

One of the guidelines is that there be three professional people who serve on this Board. Those of us who are charged with the hearings and the confirmation procedure and advice and consent, so to speak, of the President's nominations have a role to play in making sure that we send forward the most highly qualified candidates that we can to serve on such an important board.

It is in that spirit that we will be asking questions today of all three of you. I would like to ask if there are any other opening comments. Senator Gorton, do you have any or Senator Gore or Senator Rockefeller?

Senator **ROCKEFELLER**. No.

Senator **GORE**. No.

Senator **GORTON**. No.

[The material referred to follows:]

STATEMENT OF HON. JOHN WARNER, U.S. SENATOR FROM VIRGINIA

Mr. Chairman, it is my distinct pleasure this afternoon to present to the Committee Mr. Kenneth John Hill of Alexandria, Virginia.

Mr. Hill has been nominated by President Reagan to serve as a member of the National Transportation Safety Board.

Mr. Hill is a veteran of the U.S. Army and a graduate of Rollins College and will bring to his position on the NTSB a strong background in investigations and security.

This will be particularly important to the role of the NTSB as the agency responsible for determining the cause of the numerous and varied types of accidents that occur in the transportation of people and goods throughout our nation and, indeed, the entire world.

I am certain that Mr. Hill will be a splendid addition to this very important Board and I urge the Committee to swiftly approve his confirmation.

BIOGRAPHICAL SKETCH OF KENNETH JOHN HILL

822 South Lee Street Alexandria, Virginia 22314.

September 7, 1946. Trenton, New Jersey.

Married to Karen Kornrumpf.

Geoffrey H. Hill, 2 years.

Rollins College, 1964–68. BA 1968, Colonial High School, 1960–64, University of Miami Graduate School, 1972, Foreign Service Institute, 1982.

August 1975 to date—Officer, Foreign Service, Bureau of Administration, U.S. Department of State. *Detailed to the White House Staff 1983 to date, 1984–85—Director of Intergovernmental Affairs, 50th Presidential Inaugural Committee, 1983–84—White House Liaison and Federal Coordinator, 1984 Summer Olympic Games, 1982–83—Regional Security Officer, U.S. Embassy, Bonn, Germany, 1978–82—Deputy Director Dignitary Protection Division, Washington, DC, 1975–78—Special Agent, Miami, Florida, 1974–75—Investigation, U.S. Civil Service Commission, Miami, Florida, 1973–74—Investigation, U.S. Civil Service Commission, Augusta, Georgia, 1968–71—1st Lieutenant, Infantry, U.S. Army, Ft. Benning, GA, Ft. Dix, NJ, and Republic of Vietnam.

As indicated above.

BIOGRAPHICAL SKETCH OF VERNON LESLIE GROSE

Address: 1101 South Arlington Ridge Road, Suite 1117, Arlington, Virginia 22202.

Date and place of birth: 27 June 1928—Spokane, Washington.

Marital status: Married to Phyllis Jean (Heine) since April 14, 1951.

Names and ages of children: Rhonda Susan (Grose) Chumley, 32, Brenda Ruth (Grose) Tutmarc, 30, Lynnda Lorelle (Grose) Owens, 26, Wesley Paul Grose, 25, Bradley Wayne Grose, 23, Nanette Jill Grose, 20.

Education: Whitworth College, 1946-50, BS 1950, University of Washington, 1953, Dartmouth College, 1963, University of Southern California, 1965-67, MS 1967.

Employment record: Expert Consultant, NASA Headquarters, Washington, DC.; 1984—; Member, National Transportation Safety Board, Washington, DC; 1983-84; President, Omega Universal Incorporated, Woodland Hills, CA; 1982-83; Vice President, Tustin Institute of Technology; Santa Barbara, CA; 1966-82; Chief of Reliability, Rocketdyne; Canoga Park, CA; 1964-66; Director of Applied Technology, Northrop Ventura; Newberry Park, CA; 1962-64; Director of Reliability, Litton Industries; Woodland Hills, Ca; 1959-62; Applied physicist, Boeing Airplane Company; Seattle, WA; 1952-59.

BIOGRAPHICAL SKETCH OF JOHN K. LAUBER

Address: 788 Sutter Avenue, Palo Alto, CA 94303.

Date and place of birth: December 13, 1942, Archbold, Ohio.

Marital status: Married to Susan Elizabeth Myers, September 16, 1967.

Children: Sarah Howland Clark Nelson (Stepdaughter) 25 years.

Education: Ohio State University 1/64-8/69 Ph.D. August 1969, MA June 1967, BS June 1965, Bowling Green State University, September 1960-June 1963.

Employment Record: Research Psychologist, U.S. Naval Training Devices Center, Orlando, FL., August 1969-March 1973; Research Psychologist, NASA-Ames Research Center, Moffett Field, CA, March 1973-February 1984 (various positions); Chief, Aeronautical Human Factors Research Office, NASA Ames Research Center, Moffett Field, CA, February 1984-present.

Government Experience: My entire professional career has been spent as an employee of the Federal Government. I have also served as a Member of a National Academy of Sciences Institute of Medicine Panel to review the scientific evidence relevant to the mandatory age 60 retirement for airline pilots (1980), and as Assistant Technical Director for President Reagan's Task Force on Aircraft Crew Complement.

STATEMENTS OF KENNETH J. HILL; JOHN K. LAUBER; AND VERNON L. GROSE

Mr. HILL. I am honored and pleased to appear before this committee today as a nominee to the National Transportation Safety Board. To be considered for this position is an honor that I will bear with pride in the years to come. Rarely is one given the opportunity to serve in a position where the fruits of your efforts can noticeably serve the public interest in a meaningful and visible way. As a member of this Board, you do. The potential impact we can make upon the well-being and safety of the traveling public is limited only by our imagination, leadership, and perseverance.

The record of accomplishments I would bring to this position is something of which I am proud. I recognize the debate that has ensued during the past several years over technical qualifications for all Board members and appreciate the point of view of those who feel that each and every prospective Board member should be qualified from this technical standpoint. However, I feel that while this would provide a distinct advantage in some regards, necessarily there are other qualities of equal importance. The requisites for a Board member of the NTSB are not far removed from those that are required for any senior level policy position within the Federal Government.

The ability to judge and weigh a diversity of opinions and a multitude of sometime conflicting factors is central to fulfilling the duties of this senior position. We should be seeking those individuals with a breath of understanding of public policy and its formation. As a nonregulatory agency, our recommendations stand on their merit, backed by the reputation and integrity of those involved. In this regard, my experience in persuading skeptical groups toward adopting necessary recommendations and policies should be of value to the Board in the forthcoming years.

If confirmed as a member of the Board, I intend to surround myself with a staff of those that have the technical expertise I presently need, and avail myself of every opportunity to consult with the Board's professional staff in an effort toward becoming familiar with the technical aspects of the issues. I bring an open mind to the considerations that will occur on the Board and am not burdened with preconceived prejudices or notions. I look forward to working closely with this committee in the future and value the opportunity of appearing before you today.

Mr. LAUBER. I am pleased to be here today and am honored to have been selected by President Reagan for nomination to the National Transportation Safety Board.

I have 15 years of experience in aviation human factors research—three years with the U.S. Navy, and the remainder at NASA's Ames Research Center where I am presently Chief of the Aeronautical Human Factors Research Office. My work at NASA has focused upon the problems of human error in civil flight operations, and I have had the opportunity to become involved in a wide range of issues and problems involving aviation safety matters. My colleagues and I have had the good fortune and a great pleasure of seeing many of our research results applied by airlines and regulatory authorities nationally and internationally. Our work has also been frequently applied and cited by the NTSB.

It is with some misgiving that I face the prospect of leaving NASA, where I have had the opportunity to work with a highly competent group of engineers, scientists, physicians, and others. The research facilities at NASA are outstanding, and the programs have been well supported and received. These constitute all the necessary ingredients for a successful research effort, and it has been highly rewarding professionally and personally to be associated with that Agency.

However, the NTSB also offers great possibilities and opportunities for continuing to contribute to aviation safety, and furthermore will provide additional opportunities to apply my human factors expertise to other modes of transportation as well. I have always felt that the concept of the NTSB as spelled out in the Independent Safety Board Act is an outstanding one. The basic notion of a truly independent body which reports directly to the Congress on matters having to do with transportation safety provides a model for the organization of safety efforts within government, and for that matter, outside of government as well, For these reasons, I would welcome the opportunity to become a member of the Board, and to work with the other members and the staff in the promotion of transportation safety. If confirmed, I look forward to working with this and other committees of Congress, with other Federal agencies, and with all elements of our transportation industry. I would be happy to answer any questions the committee may have.

Mr. GROSE. Madam Chairman. I am both honored and pleased to be here today as a nominee to the National Transportation Safety

Board. The privilege of your declared confidence in my ability to serve is something which I would regard highly.

My previous 10 months service as a Board member was a learning experience that will serve me well for the remainder of my term of office. The dedication and expertise of the staff is world-renowned, of course. But working first-hand with them enhanced my respect for their capabilities. In the same way, the collegial relationships established with Chairman Jim Burnett and Vice Chairman Patricia Goldman were very supportive, and I look forward to working with them again.

The Senate often asks Safety Board nominees to express how they intend to promote safer transportation. I have no specific safety targets or preconcieved projects. On the other hand, my more than 30 years of professional involvement in transportation-related industrial, academic, and governmental activity should provide a rational perspective for balancing, with very limited resources, safety emphasis among the five transportation modes.

As an avowed interdisciplinarian, I have had both theoretical and "hands on" experience in making the products of technology safer. Being thus aware of what technology can offer to make transportation increasingly safer, I am nonetheless committed to the current Board position that breakthroughs in transportation safety are more likely through understanding and accommodating human behaviorial variability than through more exotic producs of technology. My involvement, for more than two decades, in the discipline of human factors confirms that commitment.

I am pleased that President Reagan has renominated me. With respect for and desire of this committee's affirmation of his confidence in me, I ask that you approve my nomination.

I will be pleased to respond to questions.

Senator KASSEBAUM. Thank you. First, I would like to explore with you, Mr. Hill, a bit about your background. Is it correct that you were a Foreign Service officer?

Mr. HILL. That's correct, officer with the U.S. State Department and presently on detail to the White House staff. I am still employed with the State Department.

Senator KASSEBAUM. And in that role you have been largely involved with what particular type of work?

Mr. HILL. My last assignment with the Department of State was at the U.S. Embassy in Bonn coordinating the antiterrorism efforts within the country of West Germany.

Senator KASSEBAUM. And you have now left the Foreign Service Officer Corps; is that correct?

Mr. HILL. I have not. I am on detail to the White House staff at this time. I am still assigned to the Department of State.

Senator KASSEBAUM. And you are part of the Foreign Service Officer Corps; is that right?

Mr. HILL. That's correct.

Senator KASSEBAUM. And confirmed as a Foreign Service officer?

Mr. HILL. Foreign Service Reserve Officer.

Senator KASSEBAUM. Have you followed some of the investigative efforts of the NTSB and what would you hope to contribute if you were sent out on an investigation? What would you feel would be important in the technical advice that you could offer?

Mr. **Hill**. Certainly I have followed the efforts over, particularly, the past 6 months as it has been a very visible agency, considering all the incidents that have occurred recently.

I have indicated in previous questions that I certainly don't consider myself to be one of the technically qualified members. However, as an aside, I would say that throughout my Federal career I have been involved with both the conduct and evaluation of investigations, whether it be criminal, personnel, or national security matters.

While I understand that they are not exactly accident investigations per se, the fundamentals of investigation remain the same. And I believe that we have never had anyone on the Board with that in their background. I think it may be of some value to a collegial body, such as the Board.

Senator **Kassebaum**. I would like to briefly ask questions of all three. Unfortunately we have just had a vote called so we may have to work around some votes for a time.

Senator **Gorton**. Three in a row.

Senator **Kassebaum**. It is most untimely. We will try and stagger this so that we can keep it going as long as possible.

Mr. Lauber, let me ask you because you have had some extensive background in the work of the human factors and psychological factors that come into play under stress. It would seem to me this could be a very important consideration in an investigative nature of the NTSB.

Mr. **Lauber**. I think that's correct, Madam Chairman. The available data show that human error is responsible for the vast majority of accidents in all modes of transportation, or for that matter, in any complex man/machine system. So I think the work I have done in human error is directly applicable, not just to aviation but to all modes.

Senator **Kassebaum**. You have already worked, have you not, with aviation to a great extent and have you done any sort of analysis of aviation safety?

Mr. **Lauber**. Yes. My work has been almost entirely devoted to issues of aviation safety of one kind or another. The focus of the work that we do at NASA-Ames and the program that I have been associated with is basically concerned with the whole issue of human error and why it occurs, and what we can do to either prevent human error or to prevent accidents by containing human error when it does occur.

So the focus has been directly on those kinds of issues. I have had, in the course of my experience, the good fortune of working with many in other Federal agencies—the FAA, the NTSB, and others as well—so I think that my background well qualifies me for this position.

Senator **Kassebaum**. Mr. Grose, you have had about 1 year, I believe, as a recess appointee on the NTSB. I would like to explore the work that you have done there.

Starting with your background, you are an engineer. Is that correct?

Mr. **Grose**. Basically my education was in physics and applied physics, particularly, so it is very closely related to engineering.

Senator **Kassebaum**. Is it correct to say that your work has been devoted largely to management systems study?

Mr. **Grose**. Yes, I left applied physics as a practitioner in about 1959, and went into technical management in industry. Although I have had oversight of applied physics since then, I left that field at that time.

Senator **Kassebaum**. How did this benefit you in your work in investigation? I believe you were involved in several of the investigations at the time you were on NTSB; is that correct?

Mr. **Grose**. Yes, I was in charge of the Board's investigation of the mid-air collision in San Luis Obispo in August 1984, also in the Amtrak head-on collision in New York City in July 1984 and an Amtrak derailment in North Carolina in March 1984 while serving on the Board.

Senator **Kassebaum**. How did your work with management systems translate to an analysis, particularly, of the accident?

Mr. **Grose**. I think the systems approach, which is really my professional specialty, looks at all scenes in a holistic or global perspective and is much in line with what we have discussed already about human factors; in other words, look not just at the hardware but at the whole human interaction with that hardware so the man/machine interface is also of great interest to me and has been for many years.

Senator **Kassebaum**. You were at Tustin Institute; is that correct?

Mr. **Grose**. That's correct, for about 16 years.

Senator **Kassebaum**. Did you teach management systems there?

Mr. **Grose**. Yes; I did.

Senator **Kassebaum**. Where is Tustin?

Mr. **Grose**. The institute is named after the founder. It is not in Tustin, CA. Many people often think it is named for the city. It is in Santa Barbara, CA.

Senator **Kassebaum**. Is it a 4-year institute of technology?

Mr. **Grose**. No: it is an institute that teaches courses that bridge between formal academia and the working world, so the courses basically are offered either onsite or offsite in a number of subjects, technical subjects as well as management.

Senator **Kassebaum**. For an academic degree?

Mr. **Grose**. No. It offers continuing education units, which are a recognition of academic work but are not applicable to a degree.

Senator **Kassebaum**. I have further questions but I would like for anyone else who has to leave, and may not be able to get back, to have an opportunity.

Senator Gore?

Senator **Gore**. Is it OK if I ask a couple of brief questions now? Mr. Grose, you list yourself as Dr. Vernon Grose on your résumé and on papers that you sign. Where did you get your doctorate?

Mr. **Grose**. The doctorate is a doctor of science, which can be either earned or honorary; mine is honorary. And that was so defined in all papers that I submitted to the committee.

Senator **Gore**. So when you signed your name Dr. Vernon Grose, you put honorary after it?

Mr. **Grose**. I don't happen to do that, but the designation used, D.Sc., is an indication that the degree is honorary.

Senator Gore. D.Sc.?

Mr. Grose. Instead of S.C.D. When it is earned it is S.C.D. When it is honorary, it is D.Sc.

Senator Gore. You use the title doctor of science, right?

Mr. Grose. Yes, and I also list the affiliation that granted that degree. It is a college and those that understand the distinction would recognize that a college cannot grant an earned doctorate. So it is always honorary if a college gives it.

Senator Gore. I may not be sophisticated enough to understand that, but when I see doctor of science after somebody's name, I assume that the person has a doctorate. It seems to me you implied that you have a Ph.D. when actually you don't.

Now, you have been nominated for the independent slot; is that right?

Mr. Grose. That's correct.

Senator Gore. The way this thing is set up is Republicans, Democrats and Independents.

Mr. Grose. Right.

Senator Gore. You are really a Republican, aren't you?

Mr. Grose. No; I am not. I am an Independent and have been for over 25 years. In the State of California we are obliged to declare political affiliation and since 1959 I have consistently declined to state a political affiliation.

Senator Gore. You made contributions to the Republican National Committee?

Mr. Grose. I did make a contribution to that committee.

Senator Gore. You made contributions to a Republican campaign?

Mr. Grose. I listed my contributions and I don't have them in front of me.

Senator Gore. They just all happen to be Republicans and the Republican Committee, and there doesn't happen to be any Independents or Democrats on there.

Mr. Grose. If I could respectfully say what I did, I supported only people that I personally knew. And those were only two people and they were both Republicans.

Senator Gore. Again, the basis of the question is that you are supposed to be appointed for an Independent slot. If you have a party preference, that is fine, but I don't think that it is helpful to maintaining the integrity of this process to have someone who is really affiliated with one of the parties to pretend he is Independent, any more than it is helpful to have someone to pretend that he has a doctorate when he doesn't really have a doctorate, or to pretend that he has expertise in transportation safety—do you have expertise in transportation safety?

Mr. Grose. I do.

Senator Gore. Tell me what that is.

Mr. Grose. I listed for the committee my expertise in all five areas that listed in the NTSB statute: accident reconstruction, safety engineering, human factors, transportation safety, and transportation regulation. I have furnished those to the committee.

Senator Gore. Where did you get the accident reconstruction experience?

Mr. GROSE. Among the things I have done, I have served with the National Academy of Sciences on two different committees, one of which particularly did reconstruction of grain elevator explosions. I have performed accident reconstruction in three different States with four major explosions being reconstructed.

For several years, I also worked in designing and conducting combined environmental tests-to-failure in applied physics for Boeing Airplane Co. where we reconstructed after a destructive accident, what the forces were. I have also been engaged as an expert to reconstruct a major ammonia explosion recently in an ice plant. So I believe I qualify in that area.

Senator GORE. We have run out of time. You can elaborate on that in response for the record, if you like. Suffice it to say, I am a little bit troubled by the nomination and I would have questions for Mr. Hill about his experience in this area as well, but I understand we are out of time. Madam Chairman, I appreciate the courtesy.

Senator KASSEBAUM. We are trying to check and find out if there are three consecutive votes.

Senator FORD. There are two.

Senator KASSEBAUM. I think we might as well recess until 3 o'clock. I think it is foolish to hope that we can keep this going.

[Recess.]

Senator KASSEBAUM. My apologies for the interruptions here. I think there will be other Senators who will be coming back but I hesitate to detain you any further, so we will proceed with some of the questions that I have and then with the others as they return.

Mr. Grose, I would like to again ask you about your work on the investigations and how you felt your background contributed to that.

I would like to understand how you were involved in the investigations that you were; whether you felt that you had the technical expertise that could contribute to the investigation; and what role you think a Board member has in assessing an accident along with the professional staff.

If you could answer that, I have another one that will follow onto it.

Mr. GROSE. I, serving as the Board member in charge of an investigatory team onsite, worked with the accident investigator in charge as the staff person really technically charged with governing the investigation. The role of the member is to oversee an investigation from a public policy point of view and also to respond to the news media and act as a spokesman on behalf of the Board. So even though I have a technical background, I don't feel that the role of a member is to second guess technically the staff people. I recognize them as professionals and very well equipped and experienced to carry out the technical aspects of the investigation.

Senator KASSEBAUM. For my own information, do you report your findings back to the Board when you go out on investigation?

Mr. GROSE. The team that goes out on investigation stays onsite until they gather enough evidence to come back home, but that is only the beginning of the investigation.

At that point the member in charge of the investigation really disassociates himself. The staff continues its work and then there is, if the accident is of sufficient public interest, a public hearing held where another Board member may go out to the locale to conduct it. Seldom, as a matter of fact, does the member who went out with the initial investigation team also chair the public hearing.

Board members are later involved, all five of us, at the time the report is adopted for approval or correction.

Senator **Kassebaum**. The report is made by the staff, under your supervision as the member who was assigned to that accident?

Mr. **Grose**. You really disassociate yourself during the report preparation process. That may take 6 or 8 months. The staff continues its work but then brings it forward to the entire Board. All five members exercise the same kind of oversight on the report that is finally published.

Senator **Kassebaum**. And does the Chairman of the Board have the final say on how this is interpreted or how does the system work?

Mr. **Grose**. All five members, I would say, have equal responsibility for the excellence of the report and what it says: its conclusions, probable cause, and recommendations.

The role of the Chairman, as far as the reports are concerned, is one of an equal colleague. However, he does have responsibility administratively for the staff. That is a general responsibility assigned to him.

Senator **Kassebaum**. There have been stories circulated about the fact that there were professional personnel leaving NTSB. I can make an argument, I am sure, that there were better jobs elsewhere that they were seeking. But it is of concern, I think.

I wonder if you could assess, having been there for 1 year, why this seems to be occurring at this time.

Mr. **Grose**. During the time I served on the Board, and it is now more than 1 year since I was there, there was really no more than normal attrition that I observed. I have only read in the newspapers since then that the rate may have increased. Should I go back on the Board, I would certainly want to find out what some of the factors were. But at this point I have no indication of that as to what might be causing it.

Senator **Kassebaum**. Might it be that there is a belief that the Board itself has lost some of the professionalism necessary to instill that in the staff?

Mr. **Grose**. I don't think that you can rule out anything. I wouldn't want to do that precipitously. There are a number of reasons why people leave any organization. Each case would have to be examined on its own merits, I think.

Senator **Kassebaum**. At this particular time it is, it seems to me, very important that we not only are operating with a full complement of members on the Board, which has not been the case over a considerable period of time, but also with the cohesiveness that lends support to the morale and the spirit of the organization.

Mr. **Grose**. In my response to the committee to this question, I did indicate that I would support and attempt to determine the things that we could do to remove an "us and them" mentality; that is, between the appointed five members and the permanent staff. We need to think of ourselves as a unit and I think it is possible to accomplish that.

Senator KASSEBAUM. With regard to the work that you did previously, were you a member of the applied physics staff at Boeing?

Mr. GROSE. That's correct.

Senator KASSEBAUM. And in that capacity, what did you do?

Mr. Grose. My main work was in reliability of missile components, although I also wrote the development test program for the Minuteman ICBM in 1959. The work I did was to test missile components. That work is very related, incidentally, to accident reconstruction, which I earlier indicated in answering Senator Gore's question.

Senator KASSEBAUM. You wrote the development test program for the Minuteman ICBM?

Mr. GROSE. That's correct.

Senator KASSEBAUM. How long were you at Boeing?

Mr. GROSE. I was there 7 years, 1952 through 1959.

Senator KASSEBAUM. Working on this program?

Mr. GROSE. No; the Minuteman contract was awarded to Boeing in 1958 so it was during my last year that I worked on the Minuteman.

Senator KASSEBAUM. I see. So you didn't really follow through with the development of the ICBM? How much were you involved in work with Boeing on this program?

Mr. GROSE. With the Minuteman ICBM? I wrote the development test program, which was a early program for Boeing. Boeing was the integrating contractor working with the Ballistics Systems Division at the Air Force at the time that I wrote the development test program for it. But my previous work had been related, in that I worked on the IM-99 BOMARC, which was a guided ground-to-air missile.

Senator KASSEBAUM. For Boeing?

Mr. GROSE. Yes.

Senator KASSEBAUM. Were your responsibilities to actually follow through with the test or did you just write the program?

Mr. GROSE. The Minuteman program was set up to specify criteria for Boeing subcontractors to fulfill in the development of that missile. The Minuteman probably went into operational capacity in about 1962, so this was early work done prior to the missiles being built.

Senator KASSEBAUM. Then after Boeing you went to Rockwell?

Mr. GROSE. No. I left Boeing and went with Litton Industries where I worked on inertial guidance systems for aircraft and missiles but primarily Navy aircraft, the A6 Intruder, WZF, WFZ and the P-3 Orion aircraft, as well as the F-104 for the German Luftwaffe and the Canadian C-104 aircraft. I spent a great deal of time with fighter aircraft.

Senator KASSEBAUM. How long were you at Litton?

Mr. GROSE. Three years. I was director for reliability for that company.

Senator KASSEBAUM. Director of reliability?

Mr. GROSE. Reliability.

Senator KASSEBAUM. Is that the responsibility for making sure these programs are reliable?

Mr. GROSE. That the inertial systems were reliable, right. Our professional responsibility was to assure that the inertial guidance systems would work faultlessly and allow pilots to reach a desired destination and return their aircraft to its base.

Senator **Kassebaum**. So you were in charge of the testing?

Mr. **Grose**. We set up the test program for all of the components that went into those systems, including the inertial platform, gyroscopes, and all electronic components as well.

Senator **Kassebaum**. It seems to me major responsibilities in both of those areas.

Mr. **Grose**. I believe that it was.

Senator **Kassebaum**. Yet you left that then to go to——

Mr. **Grose**. I went from there to Northrop, where I worked on the three manned space programs, with Projects Mercury, Gemini, and Apollo, as director of applied technology.

Senator **Kassebaum**. Was it afterward that you were at Tustin or prior?

Mr. **Grose**. Yes, much later, in 1966.

Senator **Kassebaum**. What is the Omega Universal, Inc.?

Mr. **Grose**. Omega Universal, Inc. was a corporation established to perform a number of multidisciplinary activities for industry and Government. The five partners that formed the corporation were an attorney, an architect, a data processing specialist, a corporate business information systems expert, and myself. So we comprised a wide area of interest and expertise.

We did work related to transportation in off-shore drilling with Exxon and also with the Coast Guard on the tension leg platform, where you are drilling in depths below 1,500 feet. We also did work on antiterrorism for the 1984 Olympics from a systems management point of view for the Federal Emergency Management Agency. So it really was an interdisciplinary type of corporation.

Senator **Kassebaum**. Is that still in existence? Are you still involved?

Mr. **Grose**. I resigned in order to take office here in December of 1983. The corporation was disbanded in April 1985.

Senator **Kassebaum**. Since your recess appointment expired, what have you been engaged in doing?

Mr. **Grose**. I was immediately engaged, on leaving office in the NTSB, by the chief engineer in NASA headquarters here in Washington. I performed a 5-month study for him on establishing private industry in space.

It was based on work starting first with the space shuttle and its proper role in transporting both personnel and manufacturing capability out into space. But also developed 72 different issues that were then ranked for their consequence or significance in establishing a private industry in space itself.

The transportation aspect of it is particularly interesting because the shuttle is owned, of course, by NASA and is somewhat in competition with commercial expendable launch vehicles, another industry we are trying to establish in parallel with the shuttle.

So the tension between Government and private industry in transportation was discussed in the study.

Senator **Kassebaum**. Was this on a consultive basis?

Mr. **Grose**. Yes; my official capacity, I believe, is listed as expert consultant to the chief engineer. I think that is the title they use.

Senator KASSEBAUM. But you would not in any way, I assume, continue in any consultive capacity?

Mr. GROSE. No, there was a 120-working day limit on that relationship. When that expired in March, I then went to work with the Environmental Protection Agency for the Associate Administrator for Research and Development. I am still there working with them in that capacity.

Senator KASSEBAUM. Senator Gorton, do you have some questions?

Senator GORTON. Mr. Grose, I am always delighted to see the biography of someone who is from my home State. You are certainly a graduate of a very distinguished college there at Whitworth.

Describe for me your educational experience at the University of Washington.

Mr. GROSE. While I was employed at Boeing as an applied physicist, I took one or two courses there in the graduate school but I never amassed enough to get a master's degree at the university.

Senator GORTON. Did you get credits from the University of Washington?

Mr. GROSE. Yes; they were in electronics.

Senator GORTON. I also note that you have experience at my own alma mater. What was your educational experience at Dartmouth College?

Mr. GROSE. I took a summer course in thermodynamics and information theory under Dr. Myron Tribus, chairman of the engineering department.

Senator GORTON. Is that all, a single, summer long course?

Mr. GROSE. It was a single, summer graduate course that I was sent, by Northrop Corp. to attend.

Senator GORTON. Was that a credit course?

Mr. GROSE. Yes, I believe it was.

Senator GORTON. Mr. Hill, I have looked over your resume here, which is quite impressive from the point of view of security, without gleaning anything in it directly or indirectly related to transportation safety.

Would you like to list what your qualifications are as an expert in the field of transportation safety?

Mr. HILL. First of all, I do not contend that I am an expert in the field of transportation safety. Certainly I would not qualify for one of the three positions under technical expertise.

However, besides the factors I indicated of an investigative background that would be of interest, and I think of value to the Board, it is my personal belief that many of the qualities we would be looking for in someone in this position all not far removed from those we would expect for any major policy position within the Federal Government.

Through the background I have had both at the State Department and serving 2½ years on the White House staff, resulting in increasingly responsible positions, I believe I can bring some of these qualities such as leadership, integrity and the ability to bring together a diverse set of opinions and factors, and to judge and weigh these in a responsible manner. So I do not have the technical expertise but I think I have qualities that would be important to anyone on this Board.

Senator GORTON. You have not served with the Board as a recess appointment?

Mr. HILL. No, Senator, I have not.

Senator GORTON. But you have, Mr. Grose?

Mr. GROSE. Yes, I have.

Senator GORTON. For how long?

Mr. GROSE. Ten months.

Senator GORTON. What would you describe to be your single most significant contribution to the Safety Board during that 10-month recess appointment?

Mr. GROSE. Are you speaking to me?

Senator GORTON. Yes.

Mr. GROSE. I haven't thought to focus my contributions into a single one particularly. I think I brought to the Board from a unique perspective, the systems concept—the idea of looking at all elements at one time. I particularly focused an emphasis on probable causation of accidents so that they should be thought of as having multiple causes rather than a singular one.

So if I had to focus on any single topic, that is probably where I made the greatest impact.

Senator GORTON. Would it be in systems analysis and not in any specific transportation field or any specific investigation?

Mr. GROSE. I have had background in all of the modes in one way or another—marine, aviation, highway, and rail—with the exception of pipeline. As a Board member, I did investigate one pipeline accident however, with Member Donald Engen in Boston. Aside from that exposure and experience, I think that bringing the systems concept of looking at accident elements holistically was bringing probably my greatest contribution.

Senator GORTON. How many professional employees does the Board have?

Mr. GROSE. At the moment, I believe there are 330 on the staff.

Senator GORTON. Does that mean that Board members themselves engage in direct investigation rather than simply directing and following the work of their professionals?

Mr. GROSE. No, Board members do not conduct nor even direct an investigation. The role of the member is not to become either as technical or more technical than the professional staff. I think the idea of having technical qualification probably is most consequential in equipping us to ask the right kind of questions in probing the staff to make sure that they have thoroughly investigated, and not overlooked anything. But we are not expected to second guess or supplant them in any sense.

Senator GORTON. Thank you, Madam Chairman.

Senator KASSEBAUM. Mr. Lauber, there has been concern expressed on and off in hearings through the years that I have been involved in the committee that the recommendations made by NTSB have not been followed. And this has been of grave concern, I think, to those who felt that many times the recommendations made by the Board have been very thoughtful and farsighted.

How do you think this could be improved? Is there a means that the Board should have to air their views more forcefully to sell the public, on some of the recommendations?

Mr. LAUBER. I think, Madam Chairman, that there are actually three things that can probably be done to improve the rate at which recommendations have been accepted, although the rate, as I currently understand it, is running around 80 percent which I consider to be pretty fair as it is.

I think if recommendations are to be accepted, they first of all have to be technically correct; that is, they have to be developed on the basis of good, sound technical evidence and must have considerable technical merit.

Second, I think that followup is probably extremely important. One of the worst things that could happen is to have a recommendation disappear without any effective followup. I think that the followup process has been greatly improved and I think contributes significantly to the reasonably high acceptance rate presently being experienced.

I think the third thing is more effective liaison with the modal agencies and with people within the transportation industry who have the ultimate responsibility for implementing these recommendations and making improvements in the system.

Senator KASSEBAUM. Have you had chance to evaluate the reports of the low morale and the loss of some of the professional staff at the board?

Mr. LAUBER. I wouldn't characterize it as having had a chance to study it. I am well aware of the reports that have appeared in the media. And I have had some discussions with people who have personal knowledge of some of these things, but I don't at this point pretend to have an understanding of what the issues are.

I agree that these are highly significant issues. I think in some sense Board members are relatively transient, they come and go. But it is the Board's staff which really provides the continuity and the corporate memory that is all-important to the effective functioning of the Board. So, I think that if there is a problem, it is something that needs to be addressed and corrected very quickly.

Senator KASSEBAUM. I have noticed, Mr. Hill and Mr. Grose, you were both involved with the summer Olympics. Did you know each other there at that time?

Mr. Grose. No; we did not.

Mr. HILL. No; I didn't. I understand that Mr. Grose was consulting with FEMA for their operation out there. I, myself, was originally brought back from the Embassy in Bonn to be the Federal security coordinator, coordinating the efforts of the law enforcement and intelligence communities.

And as it turned out, I was the only individual on the White House staff working fulltime on the Olympics during the year and a half prior their start. I eventually was involved in almost every daily decision, including those that went well beyond the security area.

So I did not have an opportunity to meet Mr. Grose.

Senator KASSEBAUM. Why are you interested in transportation, since you have worked a great deal with security and that has been a major part of your training?

Mr. HILL. It is. I have been involved with it for almost 11 or 12 years. Actually, the opportunity to be put in a position where the fruits of your labors can readily be identified and are decidedly in the public interest is a rare one, indeed.

And when this was first discussed and I was asked whether I would consider having my name nominated, after only some consideration I was delighted. An opportunity such as this, being in a senior policy position, as opposed to a distinctly operational position, comes around all too infrequently. Consequently I think this is an opportunity to serve and do something meaningful.

Senator KASSEBAUM. Yes. Certainly that is true.

But I know that many of us here have become quite concerned, because of the focus on safety in transportation, that we find as much expertise as we can draw on for the personnel serving on the Board. I am curious if this had been an interest of yours and why you want to make a shift to another field when you have developed a great deal of expertise in one other area.

Mr. HILL. I have been previously asked, in my opinion, due to my lack of technical expertise, why did the White House put my name forward. Certainly in working on the Olympics and working on the Inaugural Committee I was involved in defending some controversial and sometimes unusual decisions and policies that were not particularly appreciated by some local and State jurisdictions. I believe that senior members of the White House staff considered that I did a very satisfactory job in a somewhat visible position and they wanted me to continue on in a visible position within the Federal Government. I believe that the NTSB, certainly within the past year, qualifies as a highly visible agency, as we have all seen.

Senator KASSEBAUM. Thank you. Senator Ford.

Senator FORD. Well, let me just continue with the questioning. Why do you want to be visible? That is the only thing the White House puts forth, that they want you to be visible? That doesn't tell you anything about the combustion or RPM's of an airplane engine, does it?

Mr. HILL. Not at all, Senator.

Senator FORD. Do you know anything about that?

Mr. HILL. I do not.

Senator FORD. Do you know about pitch and yaw and a few other things?

Mr. HILL. No, Senator, I do not.

Senator FORD. It could be Navy term, couldn't it?

Mr. HILL. It most certainly could.

Senator FORD. It just indicates to me that with the concerns about airline safety and other serious safety matters somebody is sent up here that has been a good PR man for the administration but we have somebody who doesn't know anything about safety or what makes things tick.

Just because you want to be visible. I would like to be visible too but I have got, hopefully, a different reason than you have. I have responsibility and my visibility comes if I approve you. You have been nominated to the Board and you don't bring anything to that to make it safe, and you can't come back with an examination.

If you go to an accident today, do you think you could tell what caused it?

Mr. HILL. Not necessarily, no.

Senator FORD. That answers a lot of questions for me. One, you wanted to be visible. Two, you couldn't answer a question about what caused an accident.

And, Mr. Grose, how would I sign my name? I have six honorary degrees.

Mr. GROSE. I think that is for you to decide, Senator.

Senator FORD. You decide it. Tell me, this school that you are affiliated with for 16 years in California, what kind of credit, do you have a California board or something that credits those institutions?

Mr. GROSE. They do.

Senator FORD. Was that an accredited institution?

Mr. GROSE. It was.

Senator FORD. By whom?

Mr. GROSE. By the superintendent of public instruction in the State of California.

Senator FORD. Is that an institution of higher learning that you worked with or is that a vocational education institution?

Mr. GROSE. No; apparently you didn't hear my testimony. My previous testimony was that the institute was specifically designed to offer short courses that bridged between formal education, and the working world.

Senator FORD. That is basically vocational education then. Secretarial help?

Mr. GROSE. No.

Senator FORD. Computer software?

Mr. GROSE. It is basically education in professional and technical areas of engineering, physics, and management. I basically worked in systems technology and management for 16 years.

Senator FORD. What do you know about the field you are about to get into, other than the 10 months you have been there, apparently. Have you been there 10 months?

Mr. GROSE. I served 10 months on the NTSB as a member, yes.

Senator FORD. What did you bring with you prior to that 10 months and what have you learned in that 10 months that you didn't have before?

Mr. GROSE. I brought 32 years of professional experience, which is very visible and widely published. When I got to the Board——

Senator FORD. Experience in what, as it relates to transportation safety?

Mr. GROSE. I have submitted to the committee a great number of my publications, for example, the number of consulting clients I have had, the responsibilities I have had as an executive in three major corporations in the country that relate to transportation, particularly aviation and space. I have also worked in the rail mode and in the marine mode.

Senator FORD. This is safety, you understand.

Mr. GROSE. Definitely safety-related, yes. The National Academy of Sciences, which I assume has to be recognized as an authority, has engaged me twice to work with them in the marine mode; once on their committee on research needs for avoiding rammings, groundings, and collisions. I also worked with the academy on human error in merchant marine safety.

Senator FORD. What is human error?

Mr. **Grose**. I imagine my colleague, Mr. Lauber, might offer his own definition from his perspective, I would say that human error, in a general sense, relates all errors ultimately to some human being. But the academy study was directed specifically to operational error, maintenance error, or design error in the maritine arena.

Senator **Ford**. What would you do if you found an accident that was caused by design error.

Mr. **Grose**. What would I do?

Senator **Ford**. Yes.

Mr. **Grose**. As a member of the NTSB, we do investigate accidents where we feel there were design errors in the vehicle involved in an accident, whether it is a ship, aircraft or railroad vehicle. We do make recommendations related to correcting those types of errors.

Such recommendations are made to regulatory bodies, to trade associations, and sometimes to private industries that design that vehicle.

Senator **Ford**. Madam Chairman, I probably may be off base, but I am going to say my piece anyhow. I find, maybe not anything wrong with a couple of these gentlemen personally, and maybe their integrity is above reproach, and I do not fault that in any way, but I have a great deal of concern about the background and experience as it relates to safety by at least two of these nominees.

One just told me that the administration wants him to continue in a position of visibility and that is the reason he was appointed. I don't know that that is a prerequisite for serving on the Safety Board. And I am going to ask that I have an opportunity to ask some questions in writing, give some questions in writing, and ask that the nominees answer those in a timely manner.

Otherwise, I am going to have to object to—until I get those answers, I am going to have to object to the nominees going to the floor.

Senator **Kassebaum**. Senator Rockefeller.

Senator **Rockefeller**. Madam Chairman, I will not be lengthy and I have a feeling that some of the questions which I would have asked or indeed might ask, perhaps have already been asked.

But I live, as does Senator Ford, in a State where there is a lot of underground coal mining. And if there is anything that is dangerous, it is when you get an inspector, be it a State inspector or Federal inspector, who has to learn on the job and who brings with him or her a great deal of personal motivation, commitment to safety, but, on the other hand, insufficient knowledge as to the specifics, so to speak, of, let's say, an automated temporary roof system or continuous mining equipment or long wall mining equipment and all of the technical things that go into it.

It was my policy as Governor for 8 years, and I know Governor Ford felt the same way, that you just didn't fool around with that business at all. Quite apart from motivation, that expertise was what counted, and that you could have sent me Verner Von Brandt, and I wouldn't have allowed him underground in a coal mine for 2 minutes for his own safety, much less the safety of the minors, because he didn't know the business, he didn't know the business of safety, didn't know the business of the technology underneath the ground where they dig the coal and where people have died.

We have seen a tremendous amount of increase in airplane accidents. In my own State we have had bus accidents in the last several months which have been catastrophic. We had one Baltimore bus on the way to Charles Town in West Virginia and a lot of people were injured and killed and the driver had been arrested 22 times, 22 times he had been arrested over a period of 8 or 9 years.

Somebody suggested, in fact I think it was someone from the National Transportation Safety Board, perhaps you shouldn't look at their record in that period from 1976 to 1983, you ought to look at the record from 1983 to 1985 which we did. But my point is there is no substitute for expertise, specific knowledge.

And this is a very specific statute, Madam Chairman. As I read it, the safety recommendation is the Board's end product. I am reading from the law, I believe, or at least a description of it. "Nothing takes a higher priority. Nothing is more carefully evaluated. In effect, the recommendation is vital to the Board's basic role of accident prevention, since it is the lever used to bring changes and improvements in safety to the nation's transportation system with human lives involved. Timeliness is also essential."

Again, not on-the-job training but timeliness. And it goes on later to say, "Congress has required the Department of Transportation to respond to each Board recommendation within 90 days." So the Board has to give a fast recommendation as to what they think ought to be done and then the Congress has to respond. So again the need for expertise, the need for expertise.

I have four children. I want my doctors to be experts. I want them to know everything in the field. I don't care what kind of people they are. Yes, I do. But I care most about what they know and what advice they can give.

Underground with coal miners I feel the same way. With people up in the skies, the buses and the trains, I feel the same way. Now, I haven't asked you any questions. I haven't asked you any questions. But I am putting out a philosophy.

And I am worried. I guess I am doctor, doctor, doctor, doctor, doctor, doctor 12 times because a very strange thing happened when I became Governor of West Virginia. I got 12 honorary degrees in about 2 years. I was smart all of a sudden. All the public institutions wanted to give me honorary degrees, the universities wanted to give me honorary degrees and I got them. I have got two universities in my first year, Madam Chairman, as Governor. And I had been there for a long time before that.

Senator **Ford**. And if you give them some money, they put your name on a building.

Senator **Rockefeller**. Yes, but I didn't do that. Actually I did that in one case and they were the one, they were the one institution that didn't give me an honorary degree until this last Saturday, which caused me to miss three votes.

But I would never, I would never call myself a doctor. Well, what difference does it make? I don't know. I guess it makes a difference if are you trying to say something more? Are you saying more about yourself than there is to say? Are you saying more to your peers? Are you pushing yourself forward in some way which suggests by the audacity of its approach that there is a weakness behind it which, for the business of protecting people's lives in transportation scares the heck out of me.

I don't know, Madam Chairman. I know that in Mr. Grose's case that he has been there for a number of months. And I know that he has dissented on a number of occasions, I believe seven. And in each of the dissents, Mr. Grose, you criticized the way the Board majority determines the probable cause of the accident. There seemed to be a theme.

Instead of attempting to single out the major cause and contributing factors, as the rest of the Board did do, you appear to prefer to list all the factors without ranking or otherwise ordering them in importance. Then I go back to what I just read about this need to very quickly come to specifics out of recommendations, findings, make suggestions, the Congress has to respond.

So maybe I should just ask you, isn't the Board required by statute to determine probable cause in a manner that, in fact, singles out the major and the contributing factors? I ask that for the record, Mr. Grose.

Mr. GROSE. I am pleased to respond to your question, too. For quite some time in the professional safety world, of which I am a part and have been for more than 20 years, there is a concern about the idea of probable causation.

In the NTSB statute, it clearly states that the Board has the responsibility to ascertain the probable cause or causes, plural, of any accident. The purpose of the probable cause determination is not an end of itself. It is a means to arriving at recommendations that the Board will make for either new legislation, regulatory change, or some modification in the private sector.

My dissents, you are right, were relegated to a very narrow issue. In other words, I concurred with my colleagues on the major findings and conclusions of all reports. Incidentally, dissent has never threatened collegial rapport on the Board because dissent is quite common. In 1981 there were 20 dissents by all five members. In 1982 there were 15 dissents by all the members but one. And in 1983, the year previous to my tenure, there were 19 dissents by all five members. So it is not uncommon to have dissent on the Board.

The purpose of my consistent dissent was simply to focus on a very narrow but vital point—that we need to think of multiplicity of cause, not to unfocus our need, but to recognize that there are other things than a singular cause. And I think I made my case quite clear. There was never frivolous nor inconsequential intent in what I was saying.

The reason I believe I am on the right track is that by the time I ended my tenure, and we as a Board considered the report of the Air Canada DC–9 fire, inflight fire and later accident at Cincinnati, and the Board concurred with me that there were multiple causes. So I believe I was persuasive by what I did. I was consistent, and I think I had a message that particularly the general aviation community has really been urging that the Board take for quite some time.

The Department of Defense, for example, several years ago, adopted what they call the "all-cause" approach because they believed that you couldn't always find a single probable cause. Complex accidents have complex causation. And it is in that sense that I, just like you, share the idea that we have got to get to all the things that could prevent accidents and not just focus on one. So that was why I took that approach and I believe I made a contribution.

Senator **Rockefeller**. Then you can thank me for my question because you do answer it well.

Mr. **Grose**. I do, Senator.

Senator **Rockefeller**. Two more points, Madam Chairman, and I know I am beyond my time. The doctor business is symbolic; so is the political business. And symbols sometimes reach deeply.

You stated earlier, before we had to go out for a series of votes, that you had given eight times, as I count them here, to the Republican party or seven, but that you had only given to two individuals. They were two individuals that you happened to admire, which I would assume would be President Reagan and Ed Davis.

Mr. **Grose**. Both of whom I knew, yes.

Senator **Rockefeller**. Understood. There is also a Republican State Central Committee, Republican National Finance Committee, Republican National Committee, all of those being in different years. That is not giving to a particular individual who you specifically admire. That is giving to a party, as I would to the Democratic party, let's say, for different purposes.

Now, I regularly get mail from the Republican National Committee; probably having something to do with my last name. I respond very little to it but I regularly get it. It would be my assumption that were I to send in a contribution, that those on the Republican National Committee, the Republican Senatorial Committee, I got a very nice one from John Heintz the other day with my name embossed and there was a lovely certificate.

But I would have to assume that if I responded to that, that they would have the full right to think that I was loyal at least for that moment to that party, not to an individual candidate, not Ed Davis or President Reagan but to a party. Would I not be right in that they would have a right to assume that?

Mr. **Grose**. You are more skilled in that area than I am, Senator.

Senator **Rockefeller**. You are going to have to be skilled enough to get back that matter because you are Independent.

Mr. **Grose**. I would like to respond by saying that if my contributions were impersonal, that is, given to organizations, they were stimulated by letters to me that were personal. They were by either Ed Davis or Ronald Reagan. For example, my small contributions to the State Central Committee was in response to a letter from Ed Davis asking me to contribute. But the stimulus for any contribution was due to those two people. And that is as honest an answer I can give.

Senator **Rockefeller**. Mr. Hill, you list yourself as an officer of the foreign service. Were you confirmed in that position by the Senate?

Mr. **Hill**. Senator, I was a foreign service reserve officer.

Senator **Rockefeller**. It says here officer, foreign service.

Mr. **Hill**. I don't mean to give the impression that I was specifically a foreign service officer confirmed by Congress. I was a foreign service reserve officer, a distinction much as there is in the military between an officer in the U.S. Army, who is regular army, and a reserve officer, who may, in fact, serve a 30-year career.

Senator ROCKEFELLER. A reserve officer no doubt would put down reserves officer in the U.S. Army, would he not?

Mr. HILL. I specifically tried not to give the impression that I was foreign service officer; that I am an officer with the U.S. Department of State as opposed to being in the clerical section.

Senator ROCKEFELLER. I understand. I have no further questions.

Senator FORD. You could use the doctor's approach, put DC's out there or something like that. At the end, when you put your position, don't you put retired at the end of it, reserve or retired?

Mr. HILL. I am not that far along in my Federal career, Senator, to be concerned with how I will sign my name during retirement.

Senator ROCKEFELLER. Can I ask one more thing? Again getting back to this point of expertise, I understand the Olympics and I understand that people can make light of that in the sense that the light blue jackets and all the rest, but I understand that it was a very substantial organizing job.

And if one can be involved in the Olympics and they paid for themselves, and they were glorious for the country and they were a great success, that is an attribute to all of those who were involved with it and that would include you. Regional security officer, U.S. Embassy, Bonn, that is a very different kind of experience but it is an impressive experience; special agent, Miami, deputy director of dignitary protection division.

I am a little less awed by that but that is important, that is important.

Senator FORD. It is visible.

Senator ROCKEFELLER. And it requires specific types of information in detail and commitment, but it does not have anything to do with wind shear or with sudden traumatic changes in weather or structural problems in airplanes. It has nothing to do with railroads. It has nothing to do with rail beds. What is the Chessie System investing to make their rail beds safe? How do you measure that?

In other words, your approach is because you are an investigator, that the art of investigating will lead you soon to the truth. My response is the approach to the truth has to be preceded by knowledge of what you are dealing with, and I don't think you have that and I don't think you dispute that.

Mr. HILL. No, Senator I do not. On the other hand, I would also say that I will not be serving on the Board in a vacuum, that between my personal staff, from which I intend to acquire significant technical expertise, and the professional staff of the Board, I will have ample opportunity for consultation on technical matters such as this.

What I am suggesting is I bring qualities other than only technical expertise that are of greater importance to someone sitting on the Board.

Senator ROCKEFELLER. I thank the chairman for indulgence.

Senator KASSEBAUM. There is one thing we can all agree on. Although NTSB might be a small agency, it is critically important, and particularly at this time, to the Government and the public sense of confidence regarding safety in all modes of transportation.

The members of the Commerce Committee do not take these appointments lightly, and they should not. I appreciate your patience. We will be evaluating the statements and there will be some questions submitted for the record. Thank you very much.

There is another witness. Mr. John Baker, president of Aircraft Owners and Pilots Association. It is a pleasure to welcome you, Mr. Baker.

STATEMENT OF JOHN L. BAKER, PRESIDENT, AIRCRAFT OWNERS & PILOTS ASSOCIATION

Mr. **Baker**. Thank you, Madam Chairman. We are going to have to stop meeting like this. It seems like each time one of these hearings comes up, I am the one who shows up.

I would submit our statement for the record, if I might.

Senator **Kassebaum**. We are always glad to have someone play devil's advocate, although we seem to have done rather well today.

Mr. **Baker**. I had plenty of help already. I will also like to submit something that came into my possession from the October Air Transport World, an editorial on this subject and I think it is very relevant and I would like to see that in the record.

Senator **Kassebaum**. It will be made a matter of record.

Mr. **Baker**. I understand we have time constraints so let me make my points quickly, if indeed that is possible, and let you get on to other things. But this is such a terribly important issue, as you know, and as you very aptly stated, that I don't believe that we should play politics as usual, if you will, with these appointments.

We have had a series of catastrophic accidents in the aviation community. Public confidence is probably at the lowest level since Knute Rockney was killed. And we don't believe that the NTSB should serve as a learning place for anyone who is otherwise unqualified for another job.

You have one candidate before you who is outstanding, John Lauber. He has put a lifetime into it. Everyone of us in the aviation community has had the opportunity to work about him. And indeed the expertise that he brings to the NTSB is particularly relevant because human factors is becoming increasingly more important in the search for truth in terms of accidents.

But I think that if, indeed, we are going to use the NTSB for political appointees as opposed to qualified appointments, that we then will get exactly what we deserve, which is a lack of public confidence in the transportation system in this country.

This Nation and the aviation community in our case have put billions of dollars literally into the system to make it better. We don't believe that the gentlemen, other than Mr. Lauber, I have never met either of them or had the opportunity to work with him, I am aware of the conversations that have gone on about town, in terms of the staff of the NTSB as well as some of his peers while on the board regarding Mr. Grose.

Mr. Hill, I think it is pitiful that they put him in this position. His service to the President has been outstanding and he should be rewarded with a job for which he is qualified. And I don't believe we in the aviation community or in the transportation community should accept an appointment like that without large complaint.

We simply don't have the luxury of doing on-the-job training. And there are literally hundreds of people out there who are qualified. I think the White House did us a disservice in this particular case. And I think they did particularly Mr. Hill a disservice to put him through this particular exercise.

One point we would make, it has been mentioned a time or two that three of the five Board members are required to be technically competent. As you know, Madam Chairman, that is because of an effort of AOPA. We did, indeed, get through the Senate a requirement that all five be technically competent. In the conference it was knocked back to three.

We urge the committee, to avoid having this kind of dilemma dumped in their laps in the future, to seriously consider reoffering legislation which would require all five be competent. This is not an honorary board position, as so many are in this town. This has to do with human life and the confidence in the system. And those of us in the industry are offended grievously by the very lighthearted fashion in which this was addressed by the White House.

I have included in the record a letter which five of the aviation organizations, that represent essentially all of general aviation, sent to the personnel office in the White House urging them not to do this. Our position remains unchanged. I guess that is really it, Senator.

Senator **Kassebaum**. Thank you very much, Mr. Baker. You have quite an exceptional background in aviation and I respect your tenacity in trying to always follow very closely all issues, and particularly those regarding safety that affect aviation, but I know your concerns are broad for all of the transportation systems.

Senator Ford, do you have any questions?

Senator **Ford**. Madam Chairman, I have no questions for Mr. Baker except to agree with his statement. And I also agree that I think it is unfortunate that Mr. Hill has been placed in this posture by the White House.

I know what is going to happen. It will be a party line vote. And I regret that because saving of lives should be nonpartisan. It ought to be everybody's business. And I apologize, particularly to Mr. Hill, for what I feel I am going to have to do.

I have seen it done before. There are a lot of boards. He can get 7-year appointments, $60,000 a year salaries that meet four times a year. He could be visible and enjoy it and fit in very well. But as he has admitted in testimony here in questions, he really doesn't understand these things and that it would be a learning process.

And as you come from a very active airplane state, I know, and I fly and all of us fly a great deal, I couldn't get around my State if we didn't have general aviation and I use them every weekend, I feel it incumbent on myself for my own safety and my family's safety to be sure that the right kind of people are appointed.

So I regret the position that I am being placed in. I don't want to be opposed to any individual. I regret that very much. But under the circumstances of what Senator Rockefeller has stated, I think it is incumbent upon us to draw a line because Congress has spoken about the qualifications of a majority of the board.

Those who are interested in safety were very—I think you used the word—tenacious in order to bring safety to the American public. I am not saying they couldn't eventually learn this, that is fine. But this is not the place to conduct their internship.

So, Madam Chairman, I am going to be hard pressed to support at least two of the nominees.

Senator KASSEBAUM. Senator Rockefeller.

Senator ROCKEFELLER. Madam Chairman, in simply agreeing with the witness on his second page I think he says it very well:

> The National Transportation Safety Board has no regulatory powers. It accomplishes its mission principally through its reputation as a highly credible organization that is the repository of the best transportation safety expertise in the world. If this credibility is compromised in any way, the effectiveness of the Board is reduced.

I would agree. Thank you.

Senator Kassebaum. I would as well. Thank you very much, Mr. Baker. That concludes the hearing.

[The statement follows:]

STATEMENT OF JOHN L. BAKER, PRESIDENT, AIRCRAFT OWNERS AND PILOTS ASSOCIATION

Madam Chairman, I am John L. Baker, president of the Aircraft Owners and Pilots Association (AOPA). AOPA represents the aviation interests of 265,000 members who own and operate general aviation aircraft for business and personal purposes.

Since we represent a very large number of operators within civil aviation, we are naturally quite concerned with safe operations for all of our constitutents. The accident record we have compiled is the best in the world, reflecting our level of concern.

This record is in part due to the work performed by and recommendations of the National Transportation Safety Board (NTSB). Their work has often led to substantive changes that have measurable enhanced the safety of our aircraft and the environment in which they fly. This has only come as a result of the high quality of the Board personnel and their dedication to transportation safety. Essential to this activity are high quality appointees to the Board itself.

AOPA has long advocated that all Board members be appointed on the basis of technical qualification or demonstrated experience in a field related to transportation safety. While management ability and political credentials are certainly prerequisites to Board appointment, transportation safety experience must far outweigh these two factors when considering an individual for these critical positions. Our concerns in this matter are set forth in a joint letter we recently sent to the Director of White House Personnel. A copy of this letter is attached to this tesstimony.

NTSB has no regulatory powers. It accomplishes its mission principally through its reputation as a highly credible organization that is the repository of the best transportation safety expertise in the world. If this credibility is compromised in any way, the effectiveness of the Board is reduced. Given a sufficient record of compromise, the Board could be reduced to a largely ineffective body.

This creditbility stems from first having the best possible technical experts in a variety of disciplines relating to transportation safety. Secondly, the findings and recommendations of this group must be properly evaluated and presented to other regulatory agencies and the public. This second function is that of the five appointed Board members.

If the Board members are not adequately prepared to fulfill these functions, then the work of the Board will inevitably suffer. The sheer complexity of all modes of transportation demands more than just a passing interest or understanding by those appointed to pass on the efficacy of recommendations designed to reduce the level of accidents in our nation's transportation system.

Each Board member should challenge and stimulate Board employees to provide the public with the best possible product. The public's high level of interest in transportation safe will allow no less. If the Member cannot grasp the fundamentals of safe practices in the broad range of transportation subjects, this task will prove quite difficult.

With this background, I would like to offer our opinions concerning the three candidates for appointment to the Board before this Committee today.

I have personally known and worked with Mr. John Lauber for over fifteen years. He is one of the foremost experts in the field of human factors in aviation operations. His expertise in this critical field is known and respected world-wide.

This field is not unique to aviation, either. Each and every transportation mode is a beneficiary of this important specialty.

In all my dealings with him, he has demonstrated a high degree of maturity, responsibility and dedication to the field of both human factors and aviation safety. He has also demonstrated an ability to manage people and programs, a quality essential to the job at hand. For these reasons, I highly recommend Mr. Lauber for appointment as a member of the NTSB.

The qualifications of Mr. Vernon Grose are less clear. While his resume appears to be quite impressive, we have been made aware of a letter from certain NTSB staff members to members of this Committee which raised questions concerning Mr. Grose's academic and work experience qualifications. Since AOPA has not had the opportunity to work with him, I am in no position to doubt his qualifications, However, I believe the Committee should take the time to verify his academic qualifications and work experience in order to remove any shadow of doubt relative to this case. Additionally, the Committee may wish to consult with those who have had an opportunity to work closely with him concerning his suitability for the position. These actions should be taken to provide the candidate with a fair and equitable assessment of his qualifications for the job.

The third candidate, Mr. Kenneth Hill, appears to be totally devoid of *any* substantive technical expertise or work experience relating to *any* aspect of transportation or safety. For this reason alone, we vigorously oppose his candidacy. Regardless of other qualifications, the NTSB can ill afford to train any Board member in the complexities and history of transportation safety. This is certainly the case with Mr. Hill.

In summary, I urge the Committee to carefully consider these factors in choosing candidates for these critical positions. The public has recently become increasingly aware of air carrier safety. The pending appointments should be made with a view toward this awareness and the need for the highest level of credibility for the NTSB.

We will continue to press for all Board members to be appointed on the basis of technical competence in a field related to transportation safety. AOPA will be pleased to work with the Committee on an amendment of this nature to the Independent Safety Board Act.

Thank you for the opportunity to testify on this critical issue.

AUGUST 30, 1985.

Hon. ROBERT H. TUTTLE,
Deputy Assistant to the President and Director of Presidential Personnel, The White House, Washington, DC.

DEAR MR. TUTTLE: The undersigned organizations represent the majority of general aviation operating interests within the United States. Our constituents range from operators of air taxis and corporate aircraft to those of the smallest sport aircraft.

As the majority of operators within civil aviation, we are naturally quite concerned with safe operations for all of our constituents. The accident record we have compiled is the best in the world, reflecting our level of concern.

This record is in part due to the work performed by and recommendations of the National Transportation Safety Board. Their work has often led to substantive changes that have measurably enhanced the safety of our aircraft and the environment in which they fly. This has only come as a result of the high quality of the Board personnel and their dedication to transportation safety. Essential to this activity are high quality appointees to the Board itself.

We are aware that a search for three members of the National Transportation Safety Board has been underway for some time now. Because these appointees are so influential to the accident investigation process, we want to urge you to nominate only individuals highly qualified in the field of transportation and/or accident investigation or safety analysis. Since the majority of their efforts involve aviation accidents, at least two of the five members should have some significant form of aeronautical experience in their background.

We fully realize that the nomination process is a polictical one; however, we feel that transportation experience, especially in a technical or operational field, is as important as political desirability.

We have all endorsed various candidates seeking these positions. Any of these are well qualified, and we are sure there are many others equally well qualified. The point is that whether we have recommended a candidate or not, experience should weigh heavily when making a selection.

Any or all of us will be glad to discuss this issue with you.

Sincerely,

John L. Baker,
President,
Aircraft Owners and Pilots Association.

Robert T. Warner,
Executive Vice President,
National Association for State Aviation Officials.

John H. Winant,
President,
National Business Aircraft Association.

Edward W. Stimpson,
President,
General Aviation Manufacturers Association.

Lawrence L. Burian,
President,
National Air Transportation Association.

Trouble With NTSB

The National Transportation Safety Board usually does such a good job that it largely goes unnoticed here in Washington, especially during those wonderful accident-free periods. Such a period ended recently, and the safety board regrettably has been called upon to exercise its considerable expertise to tell us what went wrong and how to keep it from happening again.

NTSB has established a reputation for thorough, professional, objective investigations that is highly held worlwide. That reputation is in jeopardy these days, partly through a lack of attention from the White House and partly due to internal machinations at the NTSB itself.

The Reagan administration until last month was unable to nominate new members to long-standing safety board vacancies. It has been 18 months since all five seats at the board have been filled, and a year since the number of sitting members was cut to three. Perhaps it is the board's relative invisibility during accident-free times that helps the White House overlook its duties. Or maybe the White House delayed the nominations to allow pressure to build on Congress to accept the offered names without serious question. Whatever the case, this inattention to a prestigious and essential safety body degrades the board's ability to do its job.

In the best of times operating NTSB with a reduced compliment of members is difficult. Lately times for the international and U.S. aviation communities have been very, very bad and the board's resources have been spread thin. Results suffer. At a recent meeting the board failed to determine a probable cause for a fatal mid-air collision simply because the three members couldn't agree.

Part of the problem is endemic to Washington—politics. Contributing to the delay in naming new members was the insistence of the Reagan administration that Vernon Grose be accepted as a board member. It was Grose's political affiliation—apparent and claimed—that was the sticking point. President Reagan while governor of California named Grose to three law enforcement panels. Grose claims to be an independent on the basis of his voter registration. His politics, however, are at least as Republican and are farther to the political right than the board's highly regarded Republican Vice-Chairman, Patricia Goldman.

The Senate Commerce subcommittee on aviation passes initial judgement on NTSB nominees. It was not pleased with Grose's initial nomination in 1983 as an independent at a time the board consisted of three Republicans and an independent. The subcommittee declined to hold a confirmation hearing. Such a nomination, it was felt, would run counter to the spirit of the rule that no more than three members be from the majority party, with the unstated assumption that the minority party would have some representation. Undeterred, Reagan used a recess appointment to seat Grose on the board while Congress was on vacation.

The appointment lasted eight months until that session of Congress adjourned a year ago this month. Now the administration is trying to get Grose back on the board, but as part of a package of NTSB nominations—Grose plus two others to fill the empty seats and the expired term of Patrick Bursley—that will be acceptable to the subcommittee.

Those nominations now have been made. Vernon Grose, as expected, was renominated earlier this year. Last month the White House added the nominations of Kenneth Hill, a former White House lawyer, and John Lauber, the head of NASA's human factors efforts at Ames Research Center.

It is ironic that the recent rash of accidents has made the subcommittee more open to Grose's nomination in order to get some help to the beleaguered board. Whether the White House delay in coming up with the nominations was a result of inattention or was an intentional pressure maneuver, it doesn't speak well of the administration's attitude toward transportation safety.

We hope that despite the pressure to approve the nominations the subcommittee will carefully consider all three men to assure each has the quality the safety board and its mission deserve. If one of the nominees turns out to be a bad choice, the subcommittee has the obligation to say no.

In the meantime the board soldiers on with only two members serving running terms. Happily, Bursley is staying on until his replacement is confirmed. None of these members have an aviation background. Only Bursley, a retired Coast Guard admiral, brought transportation safety experience to the board.

Board members and chairmen lacking technical expertise in the past have relied on the considerable experience of the staff, especially in aviation matters. Lately this has not been the case, and the change has caused an exodus from the board and a reshuffling of major jobs. Some 73 staffers left the board in the first nine months of 1985; just last month many experienced aviation department heads left the board or were demoted. Many blamed the heavy-handed management of Chairman James Burnett.

Recently a person inquiring about a job vacancy at the board was told by several staffers not to apply, that the working conditions had become nearly intolerable. This is a startling change from a few years ago when NTSB aviation staffers proudly considered themselves the technical elite of aviation safety, a smoothly running machine. The morale of a highly competent group of people is suffering.

It is too much to hope that nominations to bodies such as NTSB could be made strictly on technical and personal merits. As one person put it, "this is Washington, after all." Aside from the recognition of political reality there is an argument to be made for an NTSB chairman with enough clout to be able to exert behind-the-scenes pressure pushing safety moves on extraordinary occasions.

Similarly, there is an argument to be made for the board going public to push a safety improvement in a manner more visible than the standard recommendation route. The board has done this and, occasionally, has overdone it, sometimes apparently to brighten a chairman's post-NTSB future.

Being an effective promoter of safety while retaining a reputation as an objective quasi-judicial body is a delicate balancing act and, in our opinion, should involve staying above political maneuvering but for the most important occasions.

Personal aggrandizement, however, is anatherma to the mission and spirit of the board.

[Whereupon, at 4.10 p.m., the committee adjourned, subject to the call of the chair.]

[The following information was subsequently received for the record:]

PRE-HEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. HILL

QUALIFICATIONS FOR NTSB

Question. 1. What experiences in your background makes you, in your opinion, qualified to be a member of the NTSB? Do you believe yourself to have any unique qualifications for the position?

Answer. It is my belief that the personal qualities one brings to the position of Member, National Transportation Safety Board, are not far removed from those that are required for any senior level policy position within the Federal Government. Maturity, integrity, leadership, sound judgment, and the ability to assimilate a contrasting variety of facts and opinions are qualities that are vitally important toward successfully fulfilling the duties of any senior office. In searching for candidates with these qualities, and excellent indication is the individual's proven record of increased responsibilities and superior performance.

I can readily point to both of the above factors when reviewing my past record within the military and government service. In particular, my career as an officer with the U.S. Department of State has been one of consistent accomplishments and exposure to a wide range of responsibilities and challenges.

However, in recent years, with my assignment to the White House staff, I have more visibly been given the opportunity to display these qualities that I consider vital toward being appointed to a body such as the NTSB. First, my involvement with the 1984 Olympic Games was a unique situation whereby I had the opportunity to influence the preparations for an event that was deemed important to the national interest. As the Federal Coordinator for the Games, I was responsible for supervising a budget of $50 million and allocating the Federal resources that were required to assist both local and state governments during such an unusual period of time. As Director of Intergovernmental Affairs for the 50th Presidential inaugural Committee, I was required to coordinate the operational activities of all agencies having responsibilities associated with Inaugural events. In each instance, I was required to influence, persuade, and even cajole, local municipalities into assisting the Federal Government toward what we viewed as the proper courses of action and level of participation.

Leadership and administrative ability are both qualities that will always be in demand. The NTSB is entering a period of unprecedented activity that will require members to be individuals of imagination, integrity and resolve. I believe as my record indicates, that I can significantly contribute towards the success of the Board.

Question 2. Would you, in your opinion, qualify as one of the three technically-qualified members of the NTSB required by the Independent Safety Board Act of 1974? Please explain.

Answer. No, not as precisely mentioned in the Independent Safety Board Act of 1974. However, while there is little doubt in the language of the Act exactly what was envisioned as technical qualifications, at the time, in the final analysis even this is subjective. As discussed with the Minority Staff previously, the primary responsibility of the NTSB is that of investigating transportation accidents. Consequently the value of having someone on the Board with an investigative background is obvious.

Throughout my federal career, I have been involved, in one form or another, with the conduct and evaluation of many sensitive investigations. Whether it was investigations concerning criminal, personnel, or national security matters, I have been able to develop a high level of experience and expertise. Granted these types of investigations are not accident investigations per se, however, the elements of solid investigative work remain the same. Simply put, I know a good one from a bad one.

I recognize that this type of technical background is unusual and not specifically envisioned by those that framed the Independent Safety Board Act. However, this unique experience I would bring to the Board should not be dismissed out of hand.

Question 3. What are those areas of transportation safety which in your opinion merit special attention by the Board? In which areas, if any, do you take a special interest?

Answer. Historically, the proponderant amount of time, resources, and effort expended by the NTSB has gone toward aviation safety. Because of the NTSB's origins and the unforgiving nature of inflight error, these types of accident investigations have likely attracted the imagination of most Board members and the professional staff. In my opinion the efforts in this area have not been misplaced. As one of the Board's goals is to maintain the public's confidence in the safety of aviation, an aggressive and skillful approach to the problem is a must.

It appears that in the past few years, some emphasis is being placed into upgrading efforts in surface transportation accident investigation and expanding into areas that have previously been neglected. I believe these are worthwhile efforts for, after all, this is the National Transportation Safety Board, not only the Aviation Safety Board. As we always do, it comes down to how best to allocate resources and it is the hope that these new areas of investigation can be addressed without lessening the efforts in aviation.

For me to say I have a special interest in one of these particular areas would be premature, but as a Board member normally does, I will develop my own special area for consideration as I become better acclimated to the Board's activities.

Question 4. It has been widely reported that there has recently been a major loss of experienced accident investigators and specialists at the Board. Do you have an opinion as to why this is occurring and what, if anything, should be done to curb the exodus?

Answer. While I have no direct knowledge of this situation and have not discussed this topic with anyone connected with the Board, either member or staff, I have seen reference to this issue in several newspapers. It seems to me that some of the complaints and consequently reasons for people leaving the NTSB are not unusual. This is an extremely small agency with what had been a limited turnover of personnel. Opportunities for advancement are therefore limited. Any normally ambitious employee would, not surprisingly, chafe at the prospects at being locked into a position or grade with no real chance for promotion.

On the other hand, it appears the frequent travel from periodic membership on the "Go Teams" also produces family disruption and stress.

Both complaints seem to have merit, but one must realize that to a great extent, these are problems that come with the job. This is not to say I'm unsympathetic to these grievances. On the contrary, early in my federal career I found myself in a similar situation and no amount of understanding on the part of management could relieve the frustration I felt. Nonetheless, it appears some of these problems are inherent in the system and each employee should have accepted this job with full knowledge of these problems. Consequently, this turnover in personnel seems to be a natural process. If it is found to be othewise, and that there are other factors involved of which I am presently unaware, then it is in the interest of the entire Board that a remedy be quickly found.

In either case this seeming trend is disturbing and I should wait to hear what efforts have been taken to reverse it, before I can make an informed judgement.

Question 5. Recent reports emanating from inside the Board suggest that staff morale is down and that there is a lack of rapport between management and staff. If you were confirmed to the Board and found this to be true, what steps would you take to correct the problem(s)?

Anser. Having read several of these reports, I understand that some of the reasons indicated for low morale and increased personnel turnover are predicated upon problems that are basic to the system. The NTSB is a small agency that has limited promotional opportunities. Any normally ambitious employee would eventually find that their latitude for advancement decreases sharply the higher up the career ladder they climb. Likewise, participating on the "Go Teams", involving frequent travel on short notice, would expectedly cause some stress and problems with the family. By the very nature of the job and the organization, it would be very difficult to alter these built in issues.

As to alleged mismanagement at the agency, I have no first knowledge of this and cannot comment in a responsible manner. However if at a later date I did find such activity, as the question poses, I would take this up, in private, with the Chairman. With no intention to infringe on his day to day management responsibilities, I would feel it encumbent upon me to participate in the larger policy issues that affect the Board and advise the Chairman as appropriate.

Question 6. In the past it has been alleged that some Board members have sought to interfere in or influence the Chairman's administrative duties rather than concentrating on policy issues. What is your view of the proper role of a Board member?

Answer. Following up on the previous question I would have no desire to meddle or interfere in the statutory management duties of the Chairman and his handling of the daily responsibilities of running the NTSB. There is plenty to occupy a Member's time by paying attention to their own responsibilities and activities.

As a collegial body, however, the Board functions best when pulling toward a common goal. Each member has the responsibility to consider all broad policy questions involving the Board and, in that regard, a wise manager would not hesitate to solicit the views and opinions of his colleagues when addressing issues that will eventually affect all involved.

Question 7. In the last few years NTSB has done a much better job of following-up on its recommendations, but it has never prioritized its recommendations. Do you think there would be any merit in the Board's assigning relative priorities to its various recommendations for each mode?

Answer. On the surface this seems to be a logical course of action. The prioritization of one's tasks and responsibilities is a fundamental tool of good management. In an agency that finds itself with limited resources in the face of an ever growing workload, prioritization would seemingly become a must.

In this case, however, one has to be wary of prioritizing recommendations to other agencies. It may prove to be an effective way of handling the problem, but all too easily those that have the responsibility of carrying out these recommendations may conclude that the first few in priority are the necessary ones and those of a less immediate nature can be left to slide. Only in an atmosphere of understanding that each recommendation is important in its own right can such an idea prove potentially useful.

Question 8. NTSB special studies, unrelated to any particular transportation accident, are very helpful to the Congress in evaluating hazards in the various transportation modes. If confirmed as a member of the Board, are there additional subjects that you believe merit such reports?

Answer. It seems to me that the special studies the NTSB undertakes, unrelated to any specific accident investigation, are a valuable tool for all interested parties, and are also an effort to be in a proactive rather than reactive mode. Certainly studies underway involving such topics as increased survivability efforts, hazardous aviation weather detection, and alcohol related studies provide valuable insights into persistent problems within the transportation community.

Having not been involved in the formation of the Board's special studies, and not having direct exposure to the many issues facing the safety programs today, I find it difficult, at this time, to be specific regarding areas where resources might be usefully allocated toward evaluating problem areas. Rest assured, however, that if confirmed to be a Member of the Board, I will develop some very definite opinions. As all members do, I will find my own niche and seek areas of special concern that will be of personal interest.

Question 9. Should NTSB take a more vocal role in calling the regulatory change if an agency ignores the Board's recommendation or takes an opposing view?

Answer. Certainly the Board's recommendations deal each and every time with an issue that is deadly serious in nature, and of significant consequence. Having said this, it stands to reason that if the Board's product is of a superior quality, then these recommendations should not be expected to be taken lightly. The key to this is the creditability of the safety Board's actions and recommendations. Obviously there is room for honest differences of opinion and time for serious debate. While the final analysis and evaluation may often be difficult to make clear-cut, the reputation and integrity of the Board should command such respect as to inpress upon interested parties the validity of its recommendations. In that regard, having the courage of your convictions comes into play and asserting your firm stand is not out of place.

Question 10. Private transportation accident specialists express frustration at being barred from NSTB investigations. They claim that the Board could save time and money by relying on their efforts. What is your view on this?

Answer. From what I understand, the Board, in fact, does work closely with private transportation accident specialists on a large majority of the accidents investigated. The assistance they can and do provide is naturally valuable. On the other hand, it seems that the prerogatives of the Board is in question here and I am sure that as of now, the decision as to who participates in each accident investigation remains one of these prerogatives. Also it seems to me that there is question of propriety raised when you have a potential party to litigation involved in the official investigation of an accident. So, while there may not be anything inherently wrong with using all available expertise to determine the cause of an accident, there are occasions when it may not be appropriate to invite a private accident specialist to participate in a particular investigation. At this time I feel it should remain on a case by case basis at the Board's discretion.

Question 11. The Board has been criticized for devoting far too few resources to investigating the approximately 3,000 general aviation accidents which occur annually, and that accordingly, too little data is collected from such accidents. Would you comment, please?

Answer. I'm sure that the Board may in fact be subject to criticism by someone each and every time they make a decision to allocate resources to certain areas of study, thereby excluding other areas from consideration. This is inherent in any federal agency today. Limited resources demand that policy decisions be made in the allocation of personnel, material, and time.

It would seem that the Board cannot properly investigate each and every accident that occurs in the transportation field and, therefore, must limit itself to those that raise issues with broad safety implications. Keeping this in mind, however, I do not readily dismiss this criticism. General aviation has proliferated in recent years and I am to understand that a large majority of aviation accidents each year involve this type of aircraft. There is no doubt in my mind that further study in this area would be of benefit and provide some basis for the basic task we undertake—the saving of lives.

PRE-HEARING QUESTIONS OF THE MINORITY AND THE ANSWERS OF MR. HILL

QUALIFICATIONS FOR NTSB

Question 1. What experiences do you believe make you qualified for a position as a Member of the National Transportation Safety Board? What unique expertise do you feel you could bring to that position?

Answer. It is my belief that the personal qualities one brings to the position of Member, National Transportation Safety Board, are not far removed from those that are required for any senior level policy position within the Federal Government. Maturity, integrity, leadership, sound judgment, and the ability to assimilate a contrasting variety of facts and opinions are qualities that are vitally important toward successfully fulfilling the duties of any senior office. In searching for candidates with these qualities, an excellent indication is the individual's proven record on increased responsibilities and superior performance.

I can readily point to both of the above factors when reviewing my past record within the military and government service. In particular, my career as an officer with the U.S. Department of State has been one of consistent accomplishments and exposure to a wide range of responsibilities and challenges.

However, in recent years, with my assignment to the White House staff, I have more visibly been given the opportunity to display these qualities that I consider vital toward being appointed to a body such as the NTSB. First, my involvement with the 1984 Olympic Games was a unique situation whereby I had the opportunity to influence the preparations for an event that was deemed important to the national interest. As the Federal Coordinator for the Games, I was responsible for supervising a budget of $50 million and allocating the Federal resources that were required to assist both local and state governments during such an unusual period of time. As Director of Intergovernmental Affairs for the 50th Presidential Inaugural Committee, I was rquired to coordinate the operational activities of all agencies having responsibilities associated with Inaugural events. In each instance, I was required to influence, persuade, and even cajole, local municipalities into assisting the Federal Government toward what we viewed as the proper courses of action and level of participation.

Leadership and administrative ability are both qualities that will always be in demand. The NTSB is entering a period of unprecedented activity that will require members to be individuals of imagination, integrity and resolve. I believe, as my record indicates, that I can significantly contribute towards the success of the Board.

Question 2. You have stated that you have "no pretense of having what may be perceived as the usual technical background" desired of NTSB nominees. You state further that you are "neither a licensed pilot, a former employee of the Transportation industry, a member of academia specializing in transport affairs. . . ." In light of this self-admission of no related experience, why do you think the White house nominated you for a position at the National Transportation Safety Board?

Answer. As previously indicated, my recent assignments with the White House staff have given me a degree of exposure to controversial and often divisive issues. On occasion I have been placed in a position to publicly defend decisions I had made and frequently required to explain Administration policies that conflicted with the desires of many local jurisdictions. Despite the varying points of view, I was able to successfully conclude the projects with which I had been assigned. It is my impression that senior officials within the White House were pleased with my performance and consequently wanted me to remain in a visible position within the Administration.

Certainly the National Transportation Safety Board fits the description as a visible position. Within the past year, not a week had gone by without some article, story or reference to the Board in a major publication or on a news network. The need for quality on the Board is as never before, and based on my previous performance, I assume the White House felt I was up to the task.

Question 3. As you know, the Independent Safety Board Act of 1984 requires that "at any given time, no less than three members of the Board shall be individuals who have been appointed in the field of accident reconstruction, safety engineering human factors, or transportation safety transportation regulation. In your opinion, would you qualify as one of the three technically-qualified Board Members? Please elaborate, citing specific experiences to support your assertion.

Answer. No, not as precisely mentioned in the Independent Safety Board Act of 1974. However, while there is little doubt in the language of the Act exactly what was envisioned as technical qualifications at the time, in the final analysis even this is subjective. As discussed with the Minority staff previously, the primary responsibility of the NTSB is that of investigating transportation accidents. Consequently the value of having someone on the Board with an investigative background is obvious.

Throughout my Federal career, I have been involved, in one form or another, with the conduct and evaluation of many sensitive investigations. Whether it was investigations concerning criminal, personnel or national security matters, I have been able to develop a high level of experience and expertise. Granted these types of investigations are not accident investigations *per se*, however, the elements of solid investigative work remains the same. Simply put, I know a good one from a bad one.

I recognize that this type of technical background is unusual and not specifically envisioned by those that framed the Independent Safety Board Act. However, this unique experience I would bring to the Board should not be dismissed out of hand.

Question 4. In the 97th Congress, legislation (S. 1936) was reported by the Commerce Committee increasing the number of technically-qualified Board Members from a minimum of three to five. Would you support the enactment of such legislation today? If not, why?

Answer. I suppose it would be obvious considering my previous responses that, at this time, I would not feel comfortable supporting such legislation. In my mind, two or three technically qualified members would strike a desirable balance between having a Board without any technical expertise and with what could easily become a Board with a narrow and parochial view. To demand that each member be "qualified" in the field of accident reconstruction, safety engineering, or transportation safety" automatically excludes many prominent, wise and judicious individuals from ever serving on the Board. At a time when we should be striving to maintain, or improve upon, the quality of the product the Board produces, I believe we would be better served focusing on the leadership and judgmental abilities of candidates than the narrow view of technical know how. This in no way denigrates the contribution the two or three technically qualified members would make. However, the Board, being a collegial body, has ample opportunity for each member to make and share specific contributions. Likewise, the professional staff is available for consultation at any time.

CONGRESSIONAL/EXECUTIVE INTERACTION

Question 5. The National Transportation Safety Board is an independent Federal agency. If confirmed as a Member of the NTSB, what philosophical approach for dealing with Executive and the Legislative Branches would you bring to that position?

Answer. As stated in the question, the NTSB is an independent Federal agency. While it would be difficult for me to soon forget that it was the President who sent forth my nomination, I also can add that it was done so without any caveat or implied direction. I bring an open mind and judicious nature to this position and am prepared to weigh all issues on their merit. In doing so, I believe it imperative that a wide variety of views be entertained. Consequently, this would necessitate periodic consultation with all interested parties, in particular the Legislative Branch.

PRIORITY SAFETY AREAS

Question 6. Would you please describe for the Committee the areas of transportation safety that you think require increased examination by the Safety Board?

Answer. Historically, the proponderant amount of time, resources and effort expended by the NTSB has gone toward aviation safety. Because of the NTSB's origins and the unforgiving nature of inflight error, these types of accident investigations have likely attracted the imagination of most Board members and the professional staff. In my opinion the efforts in this area have not been misplaced. As one of the Board's goals is to maintain the public's confidence in the safety of aviation, an aggressive and skillful approach to the problem is a must.

It appears that in the past few years, some emphasis is being placed into upgrading efforts in surface transportation accident investigation and expanding into areas that have previously been neglected. I believe these are worthwhile efforts for, after all, this is the National *Transportation* Safety Board, not only the Aviation Safety Board. As we always do, it comes down to how best to allocate resources and it is the hope that these new areas of investigation can be addressed without lessening the efforts in aviation.

For me to say I have a special interest in one of these particular areas would be premature, but as a Board Member normally does, I will develop my own special area for consideration as I become better acclimated to the Board's activities.

IMPLEMENTATION OF NTSB RECOMMENDATIONS

Question 7. There is a long-standing concern that other agencies and those in industry do not adopt safety recommendations that have been made by the Board. In these situations, what steps would you take as a Board Member to urge increased implementation of NTSB recommendations?

Answer. As this is a long-standing concern, I assume many different approaches have been attempted to solve this problem, with only mixed results. As mentioned in answering another question, I have had some experience in dealing with reluctant jurisdictions when it comes to making them face up to their responsibilities. On each occasion the authority I had, with which to order them to comply, had been questionable. While it may not work every time, or perhaps ever again, I had consistent success in dealing with the problem by blending a good deal of personal persuasion, exposure to public scrutiny and interest by appropriate Congressional Committees. A combination of these, and other factors, frequently caused enough discomfort for those individuals, agencies or jurisdictions to get the point. This is only one approach to the problem and each case obviously requires its own special handling.

Question 8. Do you believe the safety recommendations now made by the Safety Board should be made mandatory? Please expand, indicating why you do or do not.

Answer. This is a question that I would have to study further. My initial reaction would be to say no. Mandatory compliance with our recommendations would make the NTSB tantamount to a regulatory agency. Perhaps this would be an action welcome in some quarters, but I bet not all.

I really have not the background at this time to categorically decide yes or no on this topic. I do understand, however, that this has been a longstanding issue and one that will be referred to time and again. Not attempting to evade this question, I presently have no frame of reference to respond adequately. Rest assured, however, that upon serving on the Board, I will soon develop an opinion one way or another.

SPECIAL STUDIES

Question 9. Apart from accident investigations, the NTSB often prepares special studies aimed at the prevention of transportation accidents. Several of these studies are now underway at the Board. If confirmed as a member of the NTSB, what specific priority areas would you recommend be initiated for study, in addition to those already underway? Are there any areas that you believe the Board should stay away from in conducting these studies?

Answer. It seems to me that the special studies the NTSB undertakes, unrelated to any specific accident investigation, are a valuable tool for all interested parties, and are also an effort to be in a proactive rather than reactive mode. Certainly studies underway involving such topics as increased survivability efforts, hazardous aviation weather detection, and alcohol related studies provide valuable insights into persistent problems within the transportation community.

Having not been involved in the formation of the Board's special studies, and not having direct exposure to the many facing the safety programs today, I find it difficult, at this time, to be specific regarding areas where resources might be usefully allocated toward evaluating problem areas. Rest assured, however, that if confirmed to be a Member of the Board, I will develop some very definite opinions. As all members do, I will find my own niche and seek areas of special concern that will be of personal interest.

As of now, there are no areas that are readily apparent to me in which we should avoid involvement.

STAFFING

Question 10. Recent media reports have indicated an increasingly high turnover of Safety Board staff, many of whom are experts in various areas of transportation safety. If confirmed as a Board Member, what steps would you take to reverse this trend?

Answer. While I have no direct knowledge of this situation and have not discussed this topic with anyone connected with the Board, either member or staff, I have seen reference to this issue in several newspapers. It seems to me that some of the complaints and consequently reasons for people leaving the NTSB are not unusual. This is an extremely small agency with what had been a limited turnover of personnel. Opportunities for advancement are therefore limited. Any normally ambitious employee would, not surprisingly, chafe at the prospects of being locked into a position or grade with no real chance for promotion. On the other hand, it appears the frequent travel and periodic membership on the "Go-Team" also produces family disruption and stress.

Both complaints seem to have merit, but one must realize that to a great extent these are problems that come with the job. This is not to say I'm unsympathetic to these grievances. On the contrary, early in my federal career I found myself in a similar situation and no amount of understanding on the part of management could relieve the frustration I felt. Nonetheless, it appears some of these problems are inherent in the system and each employee should have accepted their job with full knowledge of these problems. Consequently, this turnover in personnel seems to be a natural process. If it is found to be otherwise, and that there are other factors involved of which I am presently unaware, then it is in the interest of the entire Board that a remedy be quickly found.

In either case this seeming trend is disturbing and I should wait to hear what efforts have been taken to reverse it, before I can make an informed judgment.

PRE-HEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. LAUBER

Question 1. What experience in your background makes you, in your opinion, qualified to be a member of the NTSB? Do you believe yourself to have any unique qualifications for the position?

Answer. I have 15 years of experience in aviation human factors research, first with the U.S. Navy, and more recently with NASA. My work at NASA has concentrated on operational human factors in civil aviation operations. Much of the work is devoted to understanding the causes of human error and its relatinship to accidents and incidents, and to the development of solutions to these problems through improvements in equipment design, operating procedures, crew training and safety awareness and education programs. I have participated in the study of several major issues, such as crew complement and the mandatory age 60 retirement issue. I was involved in the design, implementation and early operation of the highly successful NASA/FAA Aviation Safety Reporting System.

I am a Commerical pilot with single- and multi-engine land and instrument ratings in airplanes, rotorcraft-helicopter rating, and a B-727 type rating. I also am a certificated ground instructor with advanced and instrument ratings. I have worked extensively with the FAA, airlines, airline pilots and flight engineers and manufacturers, both nationally and internationally, on various human factors issues and programs. I believe this combination of training and experience well qualifies me for a position as a Member of the NTSB.

Question 2. Would you, in your opinion, qualify as one of the three technically-qualified members of the NTSB, required by the Independent Safety Board Act of 1974? Please explain.

Answer. My training and experience as an aviation human factors researcher clearly qualifies me as one of the technically-qualified members as required by the Independent Safety Board Act, as amended. I have an established record of productivity in my field as evidenced by my publications and presentations listed in the previously submitted biographical material.

Question 3. What are those areas of transportation safety which in you opinion merit special attention by the Board? In which areas, if any, do you take a special interest?

Answer. Within aviation, there are several areas of concern to me: the long-term effects of deregulation on safety policy and practices; the effects of ever-increasing levels of automation in both ground-based and airborne systems including some potentially unique difficulties in investigating accidents involving advanced automation technology; the dissemination of safety information—the so-called information transfer problems and the long-term effects of maintenance policies and practices upon system safety. Many of these areas of concern quite likely apply to the other modes of transportation as well.

I am also interested in human factors problems in other transportation modes, including highways. I believe it is often overlooked, even with the recent spate of aviation accidents, that the world-wide aviation fatality figure for this year is quite close to the weekly toll on our nation's highways. I strongly applaud the Board's recent efforts regarding highway safety, and hope to contribute substantially to the solution of these and other transportation safety problems as well.

Question 4. It has been widely reported that there has recently been a major loss of experienced accident investigators and specialists at the Board. Do you have an opinion as to why this is occurring and what, if anything, should be done to curb the exodus?

Answer. I am aware of the recent turnover of experienced staff at the NTSB, and am seriously concerned about it. In my opinion, it is the staff which provides the depth and continuity of experience which is absolutely essential if the Board is to continue to function as a first-rate safety organization. I don't have sufficient information at this time to understand the issues, but intend to make it my highest priority if confirmed.

Question 5. Recent reports emanating from inside the Board suggest that staff morale is down and that there is a lack of rapport between management and staff. If you were confirmed to the Board and found this to be true, what steps would you take to correct the problem(s)?

Answer. Working with my colleagues on the Board, I would undertake a concerted effort to understand the nature of the problem and to institute corrective actions if warranted. The Independent Safety Board Act clearly designates Chief Executive Officer authority to the Chairman. This authority includes broad latitute in conducting the executive and administrative affairs of the Board. However, to the extent that problems with administrative and management matters affect the implementation of Board policy, Board Members have the responsibility to review these issues and to make their views and suggestions regarding remedial actions known. In any event, the maintenance of a high quality, well motivated and productive staff is of critical importance to the Board.

Question 6. In the past it has been alleged that some Board members have sought to interfere in or influence the Chairman's administrative duties rather than concentrating on policy issues. What is your view of the proper role of a Board member?

Answer. My understanding of the intent of the Independent Safety Board Act is that the Chairman is designated as the Chief Executive Officer of the Board. In that capacity the Chairman's function is to execute the policy of the Board as determined collectively by its members. To the extent that Board policy is being effectively carried out, it is the Chairman's prerogative to undertake such administrative practices and procedures as he or she sees fit. It is the Board's responsibility to periodically review policy and to determine if it is being satisfactorily executed by the Chairman and NTSB management.

Question 7. In the last few years NTSB has done a much better job of following-up on its recommendations, but it has never prioritized its recommendations. Do you think there would be any merit in the Board's assigning relative priorities to its various recommendations for each mode?

Answer. Because of the dynamic nature of safety recommendations and objectives, I think it would be difficult for the Board to routinely assign relative priorities to its various recommendations for each mode—an action which might be given high priority when issued may assume a much lower priority as a result of information learned from new incidents or accidents. As I understand the process, safety recommendations are routinely assigned an "urgency" code based on the likelihood that the problem identified could result in additional accidents or incidents.

Question 8. NTSB special studies, unrelated to any particular transportation accident, are very helpful to the Congress in evaluating hazards in the various transportation modes. If confirmed as a member of the Board, are there additional subjects that you believe merit such reports?

Answer. I have indicated elsewhere that I believe there are several areas which should receive increased Board attention. Each of these is potentially a candidate for a special study: long-term effects of deregulation; automation and advanced technology; safety information transfer; and maintenance practices and policies. The determination of whether a special study should be undertaken must be based on an assessment of the potential yield of such a study and the resources required to conduct such studies. Given the limited resources of the Board, such studies must be chosen carefully.

I think it is possible for the Board to effectively augment its special study capabilities by making more effective use of studies being conducted elsewhere in industry or by government agencies. For example, more effective use of the NASA/FAA Aviation Safety Reporting System could be made without the expenditure of many NTSB resources.

Question 9. Should NTSB take a more vocal role in calling for regulatory change if an agency ignores the Board's recommendation or takes an opposing view?

Answer. The Board has the continuing responsibility to assure the public that safety problems identified on the basis of accident investigations or special studies are being effectively remedied by industry or the appropriate government agencies. If the problem persists, that fact must be spelled out.

My feeling is that in the long run, the Board will be more effective in getting its recommendations accepted by assuring that they are technically correct and feasible, by systematically and thoroughly following up on recommendations, and by increasing the effectiveness of its liaison with the appropriate industry and government agency personnel.

Question 10. Private transportation accident specialists express frustration at being barred from NTSB investigations. They claim that the Board could same time and money by relying on their efforts. What is your view on this?

Answer. My understanding is that the Board's procedures for inviting outside parties to participate in accident investigations are highly effective in augmenting the limited resources of the Board. I believe the Board should continue to adhere to it's present policy of excluding potential parties to litigation which might arise out of an accident to help minimize the potential for adversarial proceedings which would inhibit the free exchange of information necessary to determine the factual circumstances surrounding an accident. With that exception, I would encourage more participation of qualified outside parties.

Question 11. The Board has been criticized for devoting far too few resources to investigating the approximately 3,000 general aviation accidents which occur annually, and that accordingly, too little data is collected from such accidents. Would you comment, please?

Answer. I would like to see more attention and resources devoted to geneal aviation accidents—the record clearly shows the need. However, given the limited resources with which the Board has to work, I find it difficult to criticize their past performance in this regard. I agree with the notion that priority must be given to those areas where the potential for catastrophe and harm to the public is greatest.

PRE-HEARING QUESTIONS OF THE MINORITY AND THE ANSWERS OF MR. LAUBER

QUALIFICATIONS FOR NTSB

Question 1. What experiences do you believe make you qualified for a position as a Member of the National Transportation Safety Board? What unique expertise do you feel you could bring to that position?

Answer. My entire professional career has been spent in aviation human factors research, first for the U.S. Navy and more recently with NASA. My work at NASA has involved a wide variety of safety related issues, principally in civil aviation operations, although more recently I have also assumed management responsibility for some helicopter human factors research as well. The basic thrust of my research has to do with human error, a factor cited in a very large proportion of accidents in all modes of transportation. In our program at NASA, we are developing fundamental information about the nature and causes of human error in aviation operations, and are attempting to develop methods for controlling these errors, either by minimizing their occurrence or by early detection and correction, thereby avoiding incidents and accidents.

During my tenure at NASA, I have had the unique opportunity to become involved in the study of several significant major issues in aviation, most notably the crew complement issue (two- vs. three-crew). In addition to the many technical areas which had to be considered, my position as Assistance Technical Director and leader of the human factors group for the Presidential Task Force provided me with many insights into more global policy matters as well. Because of these opportunities, I feel that in addition to my technical competence, I also have a good understanding of the organizational and institutional elements of our aviation system.

Question 2. As you know, the Independent Safety Board Act of 1974 requires that "at any given time, no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation." In your opinion, would you qualify as one of the three technically-qualified Board Members? Please elaborate, citing specific experiences to support your assertion.

Answer. I believe my experience in aviation human factors clearly qualifies me for one of the "technically qualified" positions on the Board. My research has been directed toward aviation safety, and in fact, has been cited in recent NTSB accident reports (e.g., SAS DC-10 at JFK 1984, and Air Illinois HS-748 at Pickneyville, Illinois, 1983). Specific examples include research in an area we call cockpit resource management, the development of guidelines for implementing Line Oriented Flight Training (LOFT), joint sponsorship of a workshop on pilot training technology with the Regional Airline Association, an evaluation of Head-Up Displays in civil transport operations, and on-going studies of fatigue and circadian factors in short- and long-haul flight operations. I also served as Assistant Technical Director for the President's Task Force on Aircraft Crew Complement, and served as an advisor to the Federal Aviation Administration (FAA) during the crew complement certification of the B-757/767. I refer you to my publications and presentations listed in the biographical information submitted previously for additional examples. I am a Commercial pilot in single- and multi-engine land airplanes and helicopters, and have instrument-airplane and B-727 type ratings. I am also a certificated ground instructor with advanced and instrument ratings.

Question 3. In the 97th Congress, legislation (S. 1936) was reported by the Commerce Committee increasing the number of technically-qualified Board Members from a minimum of three to five. Would you support the enactment of such legislation today? If not, why?

Answer. I am in favor of retaining the present requirements that a minimum of three Members should have some technical expertise. Because of the collegial nature of the Board, I agree with others who have pointed out that individuals with non-technical experience can bring valuable talents to bear on Board matters, and can provide balance and insights with might not be attainable with a strictly technically-qualified Board. I believe that by providing for a majority of technically qualified members, and, given the quality and competence of the staff, the technical demands can be met, and at the same time, the overall quality of the Board's products—transportation safety information and recommendations—can be enhanced.

CONGRESSIONAL EXECUTIVES INTERACTION

Question 4. The National Transportation Safety Board is an independent Federal agency. If confirmed as a member of the NTSB, what philosophical approach for dealing with the Executive and the Legislative Branches would you bring to that position?

Answer. My interpretation of the intent of the Independent Safety Board Act is that the NTSB is responsible for the investigation of transport accidents, for the conduct of special safety studies, and for the development of safety improvement recommendations. The principal product of the Board is information about the causes of accidents and suggestions for ways to prevent accidents and incidents or injury to people and property. This information is provided to the public which has a right to know why accidents occur, and what can be done to prevent them.

Responsibility for formulating transportation safety policy resides in both the Legislative and Executive Branches, and responsibility for implementing specific solutions to identified problems resides primarily within industry and the appropriate modal agencies. One of the principal roles of the NTSB is to provide a safety "watchdog" function, monitoring the effectiveness of safety policy and programs, and providing feedback to both branches of government and to the public regarding its findings. I would also add that I firmly believe that cooperation and collaboration are far more effective than confrontation in seeking solutions to problems. I have established good working relationships with many within aviation, and intend for these to continue while I establish similar relationships with others.

PRIORITY SAFETY AREAS

Question 5. Would you please describe for the Committee the areas of transportation safety that you think require increased examination by the Safety Board?

Answer. Within aviation, I believe there are several areas where increased attention is warranted: (1) increased surveillance of long-term policy practices regarding aircraft maintenance and their impact upon operating safety; (2) continuous monitoring of policy and practices as affected by deregulation, and their impact upon operating safety; (3) an examination of the effects of new technology and increased levels of automation in both airborne and ground-based systems upon human error accidents and, importantly, upon the accident investigation process itself—to paraphrase air safety investigator Ira Rimson, you won't find electrons in the wreckage; and (4) improving the flow of safety related information to those responsible for operating the aviation system—I believe we can take a lesson from the very successful NASA/FAA Aviation Safety Reporting System.

In other transportation modes, I would like to see the Board further extend the application of investigative techniques developed for aviation to include surface and marine accidents; I think the Board's remarkable progress in the analysis and evaluation of human performance is especially important here. I also believe that some of the same areas of concern I cited for aviation apply as well to surface and marine modes: deregulation, automation, maintenance policy and practice, and information flow are really independent of the specific transportation system in question. I am looking forward to learning as much as possible about operational and equipment design issues in other transportation modes, and to be able to apply my human factors expertise in non-aviation matters as well.

IMPLEMENTATION OF NTSB RECOMMENDATIONS

Question 6. There is a long-standing concern that other agencies and those in industry do not adopt safety recommendations that have been made by the Board. In these situations, what steps would you take as a Board Member to urge increased implementation of NTSB recommendations?

Answer. I understand that the overall rate of acceptance of safety recommendations is approximately 78 percent—a rate which I consider to be fair. Three actions can be taken to increase the effectiveness of the recommendations process: (a) careful, thorough review of the process for generating recommendations within the Board to insure that they are technically reasonable and feasible: (b) continuous monitoring and follow-up of actions taken in response to recommendations; and (c) enhanced liaison between the Board and appropriate industry and modal agenices. If a recommendation is not adopted, the Board should review the basis for issuing the recommendation, and if upon reexamination the underlying problems have not been addressed, new recommendations should be issued as appropriate.

Question 7. Do you believe the Safety Recommendations now made by the Board should be made mandatory? Please expand, indicating why you do or do not?

Answer. No, I am not in favor of making compliance with safety recommendations mandatory. As I stated elsewhere, I believe that responsibility for formulating and implementing safety policy and practices must reside within the modal agencies and the industry. While safety recommendations issued by the Board must be technically correct and feasible, I don't believe that it is possible for the Board to maintain sufficient scope and breadth of experience to consistently take into account all other considerations which must be addressed in deciding whether to adopt specific recommendations.

SPECIAL STUDIES

Question 8. Apart from accident investigations, the NTSB often prepares special studies aimed at the prevention of transportation accidents. Several of these studies are now underway at the Board. If confirmed as a member of the NTSB, what specific priority areas would you recommend be initiated for study, in addition to those already underway? Are there any areas that you believe the Board should stay away from in conducting these studies?

Answer. In my response to a previous question, I indicated several areas which I believe need to be closely monitored; some of these may be candidates for special studies, but I would want the opportunity to further explore what has already been done or is in process by NTSB or others before specifically recommending a special study. I believe it is important to carefully screen candidates for NTSB special studies to insure that the Board's limited resources are being most effectively utilized. In general, I would not agree that there are areas which the Board should stay away from. The only exception would be in cases where other studies are already underway outside the Board—the Board should not duplicate efforts underway elsewhere. I would also like to see the Board make more effective use of studies and activities underway elsewhere, for example, the NASA/FAA Aviation Safety Reporting System.

STAFFING

Question 9. Recent media reports have indicated an increasingly high turnover of Safety Board staff, many of whom are experts in various areas of transportation safety. If confirmed as a Board Member, what steps would you take to reverse this trend?

Answer. I am aware of the recent reports and have received some information regarding staff turnover. I do not at this point have sufficient information to pinpoint the specific issues, and intend to give this my highest priority upon being confirmed. I believe very strongly that the effectiveness of the NTSB is directly dependent upon the thoroughness, accuracy, and timeliness of its reports and recommendations, and that it is the staff who provide the depth and continuity of technical expertise required. The "corporate memory" resident in the NTSB staff is not easily replaceable, and it is imperative that any problems with staff turnover be identified and corrected quickly.

POLITICAL AFFILIATION

Question 10. The President has nominated you for a Democratic position at the Safety Board. What political affiliations and activities have you conducted that would indicate that you are a Democrat?

Answer. I am and have been registered as a Democrat continuously since approximately 1967. As I have stated elsewhere, I have not otherwise been involved in partisan political activities of any kind. In large part, this has been because of my understanding of the provisions of the Hatch Act, although in the course of preparing for these hearings I have discovered that the Act is not quite as restrictive as I had previously thought. This is a misperception that is shared, incidentally, by many of my colleagues.

There is another consideration here: I have deliberately steered clear of activism of any kind, political or otherwise, because of a strongly held belief that in order to be able to conduct the kinds of research involving human error that I have done during my tenure at NASA, it has been absolutely necessary that I be perceived as a neutral disinterested third party. We have been successful in conducting research which requires the active cooperation of many parties, our on-going fatigue program being a classic example. Although it can be argued that this would not prevent me from making financial contributions to a political party, for example, it is nonetheless consistent with a general philosophical principle to maintain neutrality and objectivity.

Question 11. You have stated privately that you are a registered Democrat in the State of California, where you now reside. Have you ever indicated affiliation with another political party? If so, which one and when did you first register as a Democrat?

Answer. The first time I registered to vote was when I was a student still living at home, and I registered as a Republican. Around 1967, I registered as a Democrat, and have done so continuously since that time.

TRANSPORTATION EXPERIENCE

Question 12. You have indicatd that you have some 15 years of experience in aviation human factors. Please discuss the nature of the work, as well as its relationship to transportation safety.

Answer. My work has been focused upon what I call operational human factors—trying to understand why human error occurs in flight operations, and looking for solutions through improvements in equipment design, operating procedures, and pilot training and education. Specific examples include an evaluation of Head Up Displays in civil transport operations; development of a concept called Cockpit Resource Management which has received widespread attention from airlines and others; development of guidelines for applying full-mission simulation techniques to achieve more effective training of pilots and flight engineers (Line Oriented Flight Training—LOFT); and the on-going studies of fatigue and circadian factors in both long- and short-haul flight operations. Many of our research results are being applied by airlines and regulatory authorities, nationally and internationally, and we have been cited in several recent NTSB accident reports as well.

Question 13. Apart from aviation research, what experience do you have in other areas of transportation, such as maritime and surface?

Answer. I have done a limited amount of reading about human factors problems in other modes, and have had some discussions with personnel from these areas. I also participated in a preliminary government/industry meeting on the new Maritime Safety Reporting Program. My understanding is that many of the same kinds of problems I have been dealing with in an aviation context are found in other systems as well. I look forward to having the opportunity to become involved in other modes of transportation.

PERSONAL BUSINESS

Question 14. You have stated that you are the sole owner of a personal business named AeroConcepts. What is the nature of this business. Does it in any way relate to the work you do at NASA?

Answer. AeroConcepts is a business name under which I had planned to conduct several activities: flight and ground training for general aviation pilots; writing educational articles for the general aviation trade press; and participation as an expert witness in cases not involving the U.S. Government. These plans were submitted to NASA management for approval, which was granted. Apart from a limited amount of ground instruction, and a draft article for a general aviation magazine, my plans did not materialize, primarily due to the press of my schedule at NASA. AeroConcept will be dissolved immediately upon my confirmation.

PRE-HEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS OF MR. GROSE

Question 1. What experience in your background makes you, in your opinion, qualified to be a member of the NTSB? Do you believe yourself to have any unique qualifications for the position?

Answer. Based on section 303(b)(1) of 49 U.S.C. 1902(b)(1) which reads: "At any given time, no less than three members of the Board shall be individuals who have been appointed upon the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transortation regulation," I offer the following:

Accident reconstruction.—Served on National Academy of Sciences Panel on Causes and Prevention of Grain Elevator Explosions (under an OSHA grant), 1978–82, and spent two years on that Panel's "Go-Team" which investigated and developed reconstruction of explosion dynamics for four major explosions in Nebraska, Minnesota, and Texas. Co-author of two resulting National Academy documents (Nos. 33 and 37 in submitted list of professional publications).

As an applied physicist at The Boeing Company performed combined environmental tests-to-failure on missile components in 1956–59 that required analytical reconstruction of failure modes. Technical papers documenting this work include Nos. 1, 2, and 3 in submitted list of professional publications.

Have served as a consultant in reconstructing a major ammonia explosion that killed five people in an ice-making plant.

Safety engineering.—Safety engineering is a component of a broader concept known as System Safety. Have taught courses in System Safety on a continuous basis since 1966 at the University of Southern California, UCLA, and George Washington University as well as private institutions (Tustin Institute of Technology and Omega Universal Incorporated) in Canada, Federal Republic of Germany, Peoples Republic of China, and Mexico. Have also been the System Safety lecturer for the American Society of Safety Engineers.

Performed safety engineering for aircraft emergency escape systems for Teledyne McCormick Selph, encapsulated escape systems for VLCC ships for Exxon International, and vehicle loading/unloading aboard maritime prepositioning ships for the Naval Sea Systems Command.

Human factors.—Established and managed a human factors organization at Litton Industries in 1961. The Human Engineering Branch reported to me at Northrop Ventura 1962–64.

Have published three technical papers in this field—Nos. 9, 10, and 19 in submitted list of professional publications.

Appointed to the National Academy of Sciences Panel on Human Error in Merchant Marine Safety 1972–76. Our report, "Human Error in Merchant Marine Safety," was published in June 1976.

Transportation safety.—Engaged by NTSB in 1969 as a consultant to conduct onsite audits of regional NTSB offices, reorganize the Board's Bureau of Aviation Safety, conduct a series of courses on System Safety, and design a systems approach to accident investigation.

Appointed by Wernher von Braun in 1969 to the NASA Safety Advisory Group for Space Flight. As an Associate Fellow of the American Institute of Aeronautics and Astronautics, served on its Committee on System Effectiveness and Safety in 1967–69.

Served on Washington Metropolitan Area Transit Authority's Board of Consultants for common corridor risk assessment in two railroad rights-of-way for Metro, 1974–78. Conducted a Metro car fire risk assessment for WMATA in 1974. Publications relevant to transportation safety (excluding space travel) include Nos. 14, 25, 28, 38, and 39 in submitted list of professional publications.

Transportation regulation.—Invited to address the National Academy of Sciences 1971 Annual Conference on Hazardous Cargoes which was designed to establish transportation regulatory criteria for hazardous materials. At the request of the Coast Guard was appointed to the National Academy of Sciences Committee on Research Needs to Reduce Maritime Collisions, Rammings, and Groundings in 1979-81 to develop better means of regulating safety in the maritime mode.

Since leaving a recess appointment to the NTSB, I have prepared a study for NASA Headquarters that discusses 72 issues related to private transportation to and utilization of space and how that activity should be regulated.

Question 2. Would you, in your opinion, qualify as one of the three technically-qualified members of the NTSB, required by the Independent Safety Board Act of 1974? Please explain.

Answer. Yes, based on my response to Question No. 1. Beyond those experiences, my professional specialty of systems management may offer a unique contribution to Board deliberations.

Question 3. What are those areas of transportation safety which in your opinion merit special attention by the Board? In which areas, if any, do you take a special interest?

Answer. From a systems management perspective, there is a common tendency for government agencies to turn inward, over-specialize, fragment into narrow interests and thereby to lose the overarching picture of its mission. For the NTSB, this tendency is compounded by parochial interests from the outside; e.g., advocates for one mode over another or those who seek blame assessment—rather than accident prevention—from NTSB accident investigation.

Many, if not most, transportation accidents are repetitive with respect to both cause and required preventive actions. To avoid becoming the National Accident Investigation Board instead of NTSB, there needs to be—and the Board is turning that direction through its special studies, as an example—a mindset to establish and utilize a data base that sets broad direction for increased transportation safety quite independent of individual accidents. Some types of accidents, of course, will always require in-depth investigation to satisfy public demand. But with limited resources, the most effective way to prevent future accidents is to build on the collective wisdom of the past rather than looking exclusively to the latest accident.

Question 4. It has been widely reported that there has recently been a major loss of experienced accident investigators and specialists at the Board. Do you have an opinion as to why this is occurring and what, if anything, should be done to curb the exodus?

Answer. I have no information concerning this subject beyond what I have read in newspapers. My first step would be to ascertain the factors which seem to be precipitating turnover. Since the management responsibility for the staff resides singularly with the Chairman, no direct action on my part would be appropriate. However, I would be available to the Chairman in a consultive capacity as a colleague to propose any feasible alternatives that might be available. Further, I would maintain a particular sensitivity toward staff during my personal meetings with them to reinforce those long-standing positive facets of the Board's reputation.

Question 5. Recent reports emanating from inside the Board suggest that staff morale is down and that there is a lack of rapport between management and staff. If you were confirmed to the Board and found this to be true, what steps would you take to correct the problem(s)?

Answer. Beyond my response to question No. 4, I would seek to eliminate or reduce any indicators of "us-versus-them" mentality. There is an inevitable distinction between rotating appointees (Members) and the permanent staff. However, we need to think of ourselves functionally as an indivisible unit. This "team spirit" does not just happen—it must be continuously reinforced.

Question 6. In the past it has been alleged that some Board members have sought to interfere in or influence the Chairman's administrative duties rather than concentrating on policy issues. What is your view of the proper role of a Board member?

Answer. It is my understanding—and therefore the role I assumed while a recess appointee—that all administrative responsibilities for Board operation are centralized in the Chairman's office. As his colleague, I did and would feel both free and obliged to confer with him on any administrative matters that I perceived as affecting morale or operational effectiveness. Having done so, I would support any and all of his administrative decisions.

Question 7. In the last few years NTSB has done a much better job of following-up on its recommendations, but it has never prioritized its recommendations. Do you think there would be any merit in the Board's assigning relative priorities to its various recommendations for each role?

Answer. The current practice of setting relative emphasis on expected response time (Class I—Urgent Action, Class II—Priority Action, and Class III—Longer-Term Action) is quite subjective and often indefensible. To attempt a more sophisticated or elaborate ranking process would involve the establishment of criteria (probably based on severity of the hazard, its probability of occurrence, and the resources required to correct it). Even given those criteria, it is likely that such classification would remain a subjective activity that could divert already-limited NTSB resources and shift our focus for action. Additionally, since the classification would undoubtedly be done on an accident-by-accident basis, it would create a secondary but critical problem of equating the priority assigned in one accident to that assigned in others. Finally, since the action parties are a mixture of regulatory agencies, industrial corporations, and trade associations, there would never be universal understanding or acceptance of such priorities. Therefore, I see little merit in assigning relative priorities to NTSB recommendations.

Question 8. NTSB special studies, unrelated to any particular transportation accident, are very helpful to the Congress in evaluating hazards in the various transportation modes. If confirmed as a member of the Board, are there additional subjects that you believe merit such reports?

Answer. Having been gone a year and not being current on the status of special studies now in work, I have no recommendation for future ones although I would certainly take an active role in proposing new projects.

Question 9. Should NTSB take a more vocal role in calling for regulatory change if an agency ignores the Board's recommendation or takes an opposing view?

Answer. The Board's recommendations can be and have been ignored or opposed for legitimate and proper reasons. In those cases, we learn and become more effective. However, when regulatory bodies resist change unreasonably, I would favor a strong and perhaps more timely call for action.

Question 10. Private transportation accident specialists express frustration at being barred from NTSB investigations. They claim that the Board could save time and money by relying on their efforts. What is your view on this?

Answer. Private expertise is selectively permitted in investigations whenever NTSB experts may be unavailable. The NTSB has been entrusted with a special public trust—to objectively investigate accidents to find causes that can be eliminated or controlled to prevent future accidents. Its independence has been emphasized by law. Augmenting their limited investigatory resources with private experts who have a profit motive and often the biased interest of a client, must be carefully monitored to avoid compromising that public trust. Cost-effectiveness of investigation—via compromise of objectivity—has no merit.

Question 11. The Board has been criticized for devoting far too few resources to investigating the approximately 3,000 general aviation accidents which occur annually, and that accordingly, too little data is collected from such accidents. Would you comment, please?

Answer. My response to question No. 3 bears on this question as well. The amount of effort devoted to accident investigation is a function of resources available. At least two facts seem pertinent. First, more general aviation accidents are investigated today and more data from those accidents are generated than at any time in the Board's history. Second, there are more NTSB personnel assigned—both numerically and as a percentage of total Board strength—to the aviation mode than when the Board had 400 personnel (current strength is 330). The accident investigation data base is being increasingly utilized in preparation of special studies which are intended to enhance general aviation safety. On the other hand, not to ignore the criticism, the Board might urge the general aviation community to express their concern in terms of how well the NTSB is carrying out its responsibility to ensure that general aviation is safe. This focus on flight safety—instead of accident investigation which is but a means to that end—would keep the Board most responsive.

Question 12. Dr. Grose, objections have been raised to your nomination from within the staff of the Safety Board. Are you familiar with such objections? How do you respond to these objections?

Answer. I have seen a copy of one letter sent to the Committee that contained a number of allegations. Being a dedicated professional who is concerned and committed to personal integrity, the allegations—most of which can be easily resolved—cause me distress. On the other hand, my 33 years of professional life are an open book, well documented and readily defended. I have been gratified by NTSB staff personnel who have contacted me, offering to even testify in my behalf because of what they believe to be the discrediting effort of only one or two individuals whose motives are less than honorable.

Question 13. In a speech delivered to a joint meeting of the Minnesota Alcohol Action Council and The International Organization of Good Templars, you suggested that the only truly effective method for dealing with alcohol and drug abuse in the various transportation modes is to bring about changes in society which would remove the stimuli or desire to use either drugs or alcohol. How do you prepare to do this? Is this realistic? In your view, can nothing else be done other than to eliminate completely the use of drugs and alcohol?

Answer. In re-reading that speech, I must respectfully say that I did not suggest that societal change to remove stimulation for alcohol and drug use was "the only truly effective method." In the systems approach to any problem, we first set an objective—in this case, it might be to have drug-free transportation. Then any and all possibilities for reaching that objective are laid out and examined—initially without concern for feasibility. Obviously, some possibilities are ultimately discarded when proven impracticable.

Almost all work done to stop alcohol and drug use in transportation has been of an enforcement nature; e.g., road blocks, raising the drinking age, and stiff penalties for violation. In safety work, enforcement as an approach is balanced with motivation as an alternative. In the latter, you attempt to have the potential violator view compliance as in his own best interest. To the extent that motivation prevails, enforcement could even be relaxed. My paper is focused on what may be done motivationally to complement and support the enforcement efforts already in place or contemplated. Thereby, we would have a double-barreled attack on this most critical problem in transportation safety.

Question 14. It has been alleged that you have made use of NTSB facilities after the Senate failed to confirm you. Is this accurate? Was your use of these facilities justified?

Answer. As Senate adjournment approached and my confirmation was unlikely, I inquired of the Chairman how soon I would have to remove my books and personal items from the NTSB office. Because I expected renomination and had obtained a consulting position with NASA that would retain my Federal employment, he suggested that I leave my possessions in the office until my future status with the NTSB was resolved. He said there was precedent for nominees to be furnished office space in anticipation of a confirmation hearing. Since the office would remain empty and I would be working at NASA Headquarters in the next building, he proposed that I not move my materials out. Since NASA did not have an office immediately available for me, this was a temporary and appreciated convenience. I have done no work in the office aside from consulting my library for brief periods, and visits to the office have averaged less than once a week.

Regarding my former staff, they were moved out of the offices on my last day, relocated in the opposite end of the building, and given new work assignments.

Question 15. It has also been alleged that you changed your schedule considerably to go to Germany to attend a safety conference at the same time your daughter was getting married in Germany. Is this true? Was it appropriate?

Answer. No, there was no schedule re-arrangement. My daughter was married in Salzburg, Austria while I was on the same trip. Though I am convinced of the professional value of the trip, in retrospect I recognize the possibility of negative public perception. In the future, I would avoid the combination of official and personal travel to preclude such perception.

To fully apprise you of the details of this trip which I have also furnished the staff, I am attaching[1] the letter of invitation from Professor Compes, my travel reimbursement form, a background statement on the relationship between official and personal business, and a copy of my detailed report of my official visit to Wuppertal and Cologne, West Germany.

PRE-HEARING QUESTIONS OF THE MINORITY AND THE ANSWERS OF MR. GROSE

Question 1. It has been reported (Aviation Daily, 10/25/84) that you said that the NTSB has "never had a person as qualified as I am." What experiences do you believe make you qualified for a position as a Member of the National Transportation Safety Board? What unique expertise do you feel you could bring to that position?

Answer. See majority answer to question 1.

Question 2. In your submission to the Committee, you highlight the extent of your transportation exposure. Essentially, you state that you have experience driving a car, flying in commercial air transport aircraft around the world, sailing the major oceans in passenger vessels, and riding American, Japanese and European passenger rail systems. Are you contending that this exposure makes you qualified for transportation safety investigation in each of these areas?

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[1] The attachments are in the Committee files.

Answer. No. Exposure is not a qualification for investigation. However, a systematic approach to transportation safety involves the passenger or user in a vital way. Issues that the Board must resolve, when making recommendations following an accident, almost always include passenger/operator perception, reaction, understanding, and survivability. Each of these factors vary by mode of transportation. Thus exposure to the variability of operation within each mode is crucial to sound evaluation and judgment as a Board member.

Question 3. As you know, the Independent Safety Board Act of 1974 requires that "at any given time, no less than three members of the Board shall be individuals who have been appointed in the field of accident reconstruction, safety engineering, human factors, transportation safety or transportation regulation." In your opinion, would you qualify as one of the three technically-qualified Board Members? Please elaborate, citing specific experiences to support your assertion.

Answer. Yes, based on my response to Question No. 1. Beyond those experiences, my professional specialty of systems management may offer a unique contribution to Board deliberations.

Question 4. In the 97th Congress, legislation (S. 1936) was reported by the Commerce Committee increasing the number of technically-qualified Board Members from a minimum of three to five. Would you support the enactment of such legislation? If not, why?

Answer. I support the spirit of legislation that requires qualified Board Members. The key lies in the definition of "technically-qualified." There is strength in heterogeneity of backgrounds among the Members. For example, two dangers could exist if nominees were exclusively sought from the transportation industry, per se. First, there would likely be pressure to allocate one seat to each of the five modes. Second, since the transportation industry is but a subset of the general public, the Board would lose its broader sensitivity for public policy and become beholden to transportation interests that run counter to safety. The talents of inductive reasoning and regulatory insight, so necessary to transportation safety, exist in fields outside those currently listed for technical qualification in the statute.

Question 5. The National Transportation Safety Board is an independent Federal agency. If confirmed as a Member of the NTSB, what philosophical approach for dealing with the Executive and the Legislative Branches would you bring to that position?

Answer. The NTSB, though independent, must retain sensitivity to both Branches. Its independence promotes objectivity in judging and reporting to the Congress the regulatory effectiveness of the Department of Transportation within the Executive Branch, even though its Members are appointed by that Branch. Likewise, since legislation underlies all regulatory authority, its independent status is intended to objectively stimulate within the Legislative Branch new laws, when appropriate, to achieve safety goals, even though it is dependent on that Branch for its operational resources.

Question 6. Would you please describe for the Committee the areas of transportation safety that you think require increased examination by the Safety Board?

Answer. From a systems management perspective, there is a common tendency for government agencies to turn inward, over-specialize, fragment into narrow interests and thereby to lose the overarching picture of its mission. For the NTSB, this tendency is compounded by parochial interests from the outside; e.g., advocates for one mode over another or those who seek blame assessment—rather than accident prevention—from NTSB accident investigation.

Many, if not most, transportation accidents are repetitive with respect to both cause and required preventive actions. To avoid becoming the National Accident Investigation Board instead of NTSB, there needs to be—and the Board is turning that direction through its special studies, as an example—a mindset to establish and utilize a data base that sets broad direction for increased transportation safety quite independent of individual accidents. Some types of accidents, of course, will always require in-depth investigation to satisfy public demand. But with limited resources, the most effective way to prevent future accidents is to build on the collective wisdom of the past rather than looking exclusively at the latest accident.

Question 7. There is a long-standing concern that other agencies and those in industry do not adopt safety recommendations that have been made by the Board. In these situations, what steps would you take as a Board Member to urge increased implementation of NTSB recommendations?

Answer. It is my understanding that about 80% of NTSB recommendations are adopted in some form or degree. That is a significant response. To obtain a higher adoption rate, there are some internal steps that I would urge be taken as a precaution, within the NTSB.

First, we must ensure that our recommendations are efficacious; i.e., that they will really reduce the probability of a future accident. Second, we must be certain that they are feasible; i.e., that they can be implemented when considering technical, political, economic, social, cultural and legal constraints in the scene for which they are advocated. Third, we must confirm that they are, in a broad sense, cost-effective. Those three steps should be taken before attempting to rally additional external assistance.

Question 8. Do you believe the safety recommendations now made by the Safety Board should be made mandatory? Please expand, indicating why you do or do not.

Answer. If "mandatory" means that NTSB recommendations would carry the force of law, I would not favor it. Safe transportation is achieved only by those who control the scene of action—the vehicle and its operation. Even regulators do not make transportation safe, per se. For example, the Supreme Court last year (No. 82-1349) ruled that the basic responsibility for satisfying FAA air safety standards rests with the manufacturer, not with the FAA.

But there is even greater reason to oppose the conversion of NTSB recommendations directly into laws. The independence of the Board would be destroyed. Once one of their "laws" was incorporated into a vehicle design or operation and that vehicle had an accident, the Board would have the same conflict of interest experienced by the Coast Guard in investigating an accident with one of its ships.

Further, the NTSB would become a regulatory agency—without resources for enforcement. They would also be redundant to existing regulatory bodies. Increased safety is much more likely with the present tension between those recommending and those who must convert those recommendations into action than to short-circuit that process.

Question 9. Apart from accident investigations, the NTSB often prepares special studies aimed at the prevention of transportation accidents. Several of these studies are now underway at the Board. If confirmed as a member of the NTSB, what specific priority areas would you recommend be initiated for study, in addition to those already underway? Are there any areas that you believe the Board should stay away from in conducting these studies?

Answer. Having been gone a year and not current on the status of special studies now in work, I have no recommendation for future ones nor do I have any specific topics to be avoided.

Question 10. Recent media reports have indicated an increasingly high turnover of Safety Board staff, many of whom are experts in various areas of transportation safety. If confirmed as a Board Member, what steps would you take to reverse this trend?

Answer. I have no information concerning this subject beyond what I have read in newspapers. My first step would be to ascertain the factors which seem to be precipitating turnover. Since the management responsibility for the staff resides singularly with the Chairman, no direct action on my part would be appropriate. However, I would be available to the Chairman in a consultive capacity as a colleague to propose any feasible alternatives that might be available. Further, I would maintain a particular sensitivity toward staff during my personal meetings with them to reinforce those long-standing positive facets of the Board's reputation.

Question 11. You have been nominated to the Safety Board as an Independent. Yet, in the early 1970's you were appointed by Governor Ronald Reagan to the California Council on Criminal Justice, the Governor's Select Committee on Law Enforcement and the Board of Directors of the California Crime Technological Research Foundation. In addition, your response to the Committee questionaire indicates that all of your political contributions have been to Republicans, including President Reagan and the Republican National Committee. In light of these facts, how can you call yourself and Independent?

I am and have been, for 26 years, a political independent. Moving from my home state of Washington where you did not have to declare political allegiance to California in 1959, I found it counter to my fierce independence to be forced to declare my political views outside the ballot box. I have voted and worked for candidates of both parties.

Question 12. Your resume indicates that you hold a Bachelor of Science in Physics from Whitworth College. Is it correct that you hold such a degree? If so, when did you receive it?

Answer. I received that degree in June 1950.

Question 13. You have signed letters and documents as being the holder of a Doctor of Science from Southern California College. Among these documents include your resume, a speech made while a NTSB Board Member, and your responses to the Committee questionnaire. Could you please tell the Committee precisely when and where you earned this degree? Have you ever served as a member of the Board of Directors for Southern California College? If so, when?

Answer. In my responses to the Committee questionnaire in November 1983 (upon my initial nomination) and January 1985 (following my renomination) I listed the degree not as earned but as honorary, from Southern California College in 1973. The exact date was 19 May 1973. Those responses also listed my service on the Board of Directors from 1972-75.

Question 14. It has been alleged to the Committee that your Doctor of Science degree was an honorary degree. If this is true, do you believe the use of the title D. Sc., as you often refer to yourself, is an accurate representation of your credentials?

Answer. My answer to question 13 hopefully negates any need for allegation since there has been no intent to misrepresent the degree. The Doctor of Science is an unusual degree in that it can be both earned and honorary. I have guarded against others misunderstanding its honorary category in two ways: (a) its abbreviation when earned is Sc.D. and when honorary is D.Sc., and (b) when it is spelled out, the granting institution is listed. Since no college grants an earned doctorate, those interested in the distinction will know.

The degree was granted for scientific work I had done in forcing reexamination of the teaching about origins (universe, life, and man) in science classes while a Curriculum Commissioner in California. Use of the title has generally been limited to either academia or in aerospace settings where its usage is not uncommon and where the two cautions mentioned above should be understood.

Question 15. Please outline for the Committee the types of activities you performed for Omega Universal Inc., Tustin Institute of Technology and the Alpha Foundation. Are these publicly-held organizations? If not, what was your relationship with the founders or owners of these organizations?

Answer. Omega Universal Incorporated was formed as a Subchapter S Corporation in the State of California by five stockholders, none of whom were related to one another and of whom I was one. I was elected Chairman and President by the stockholders, serving in that capacity until my recess appointment to the NTSB in December 1983. My duties included corporate management, marketing, and data processing with some outside consulting and teaching.

Tustin Institute of Technology was founded in 1962 by Wayne Tustin and incorporated in the State of California in 1967. It is registered with the California Superintendent of Public Instruction as an institution authorized to grant Continuing Education Units for its courses. I joined the Institute in 1966 as a Vice President and remained in that capacity until 1982. My duties included teaching a variety of management courses and consulting with a large number of clients in application of systems technology and management.

The Alpha Foundation is a non-profit, scientific, literary, educational corporation in California. I served as Chairman of the Board of Directors which consisted of 8 members. The Foundation has been inactive since 1974. My duties included organizing projects to be funded by interested parties, public speaking, setting up and conducting periodic board meetings, and preparing promotional materials for mass distribution.

Question 16. Since completing your recess appointment at the end of 1984, you state that you have been doing consulting work for both the National Aeronautics and Space Administration and the Environmental Protection Agency. Please outline the nature of this work for the Committee.

Answer. I completed two major documents for Dr. Milton Silveira, NASA Chief Engineer, between October 1984 and March 1985. The first was a management decision model for establishing a commercial space industry, "Establishment Issue Totem Pole," which listed 72 issues and provided a method for ranking them for significance. The second was a report, "Commercial Space Operations," which summarized my research findings and made recommendations regarding NASA's role in supporting private enterprise in space.

At the completion of my NASA work, I was engaged by the Assistant Administrator for Research and Development at EPA, Dr. Bernard Goldstein, to research the problem of establishing the optimum balance of private sector and government R&D for environmental problems. A number of exhibits and reports have been prepared in support of this assignment including a functional model of EPA as an agency and a program for reviewing EPA research laboratories. Dr. Goldstein resigned in July to return to Rutgers University, so my primary contact has been Darwin Wright, Director of the Office of Environmental Engineering and Technology.

Question 17. You claim in several documents that you have "taught more people in the subject of System Safety than anyone in the world." What is the basis for your making such a claim? Has your teaching ever been accredited by recognized educational organization?

Answer. That statement first appeared in the mid-1970's in George Washington University brochures advertising a course in System Safety that I had taught there as often as five times a year for several years. It was probably based on a number of facts. First, C. O. Miller and I had in 1966 developed and co-taught the first graduate-level university course in System Safety. Students in this intensive course, underwritten initially by the USAF Directorate of Aerospace Safety, earned six units toward a Master's degree. When Miller became NTSB Director of the Bureau of Aviation Safety, I took over full responsibility for the course and continued teaching it until I was asked to take a European teaching assignment in 1968. Returning from Europe in 1969, I was invited to start a System Safety course at George Washington University, and I have continued that relationship to the present time, most recently teaching a course in May 1985. While University of Washington, Texas A&M, and several other institutions also teach courses in System Safety, GWU was quite certain that the collective course offerings—especially under one instructor—would not total the number of students that had attended my courses at USC and GWU. When the students enrolled in scores of System Safety courses sponsored by Tustin Institute and Omega Universal are added to this total, the statement becomes conservative.

Regarding accreditation, there are two general categories. First, credit may be obtained toward a degree. Second, continuing education courses may offer CEU (Continuing Education Units) which recognize authorized study but are not applicable to a degree. The USC courses granted the first type as mentioned earlier. The GWU (and teaching at UCLA that I have also done) grant CEU's. In addition to the university graduate credit System Safety courses, I have taught three graduate credit courses leading to the Master of Science degree at USC: "Chemistry and Physics of Aircraft and Missile Propulsion," "Space Technology," "Management of Research, Development, Test, and Evaluation."

Question 18. What formal training as a system safety expert have you had? Have you ever held a functional position as either a system safety engineer or manager?

Answer. The field of System Safety, as a separate discipline, dates to about 1965. I was responsible for System Safety at Rocketdyne at that time, and I believe it was one of the very first industrial organizations to formally recognize it. Since I have mentioned that the USC was the first university graduate credit course in the subject, I have been teaching the subject from virtually its inception. In addition to my management responsibility at Rocketdyne, I have functioned in both system safety engineering and management capacities as a consultant to many of the clients listed in my initial submittal to the Committee.

Question 19. It has been reported that while you were a Member at the Safety Board you held regular prayer meetings. Is this true? Were they held during office hours? Was attendance at these meetings mandatory or in any way "encouraged" for either your staff or the career staff at the Safety Board?

Answer. I have for a number of years, even before coming to the NTSB, made a practice of starting each day, from 0745 to 0815, in my office in prayer. There is no advertisement of this time. If anyone inquires whether they could join with me, they are invited to do so.

Question 20. It has also been reported that during your 10-month term at the NTSB you were invited to conduct a series of lectures at a university in West Germany, a trip which coincided with your daughter's wedding in Vienna. What were the precise dates of your official travel and the precise dates of your personal travel? How much did you seek in Federal reimbursement for this trip? Please provide copies of your invitation letter and your travel reimbursement forms for the record.

Answer. Official travel: 27–30 September 1984, Personal travel: 16–26 September 1984, Federal reimbursement: $968.72.

In addition to the requested invitation letter and my travel reimbursement form, I am attaching a background statement on the relationship between my official and personal travel. Though I am convinced of the professional value of the trip, in retrospect I recognize the possibility of negative public perception. In the future, I would avoid the combination of official and personal travel to preclude such perception.

Question 21. Precisely, what did you do and who did you lecture to while in Germany? Are copies of these lectures available? If so, please provide copies to the Committee.

Answer. Upon my return, I prepared a detailed report of the two days I spent in the Wuppertal-Cologne area. It is attached for your review.

Question 22. While you were on this trip, you have stated that you had to rearrange your Go-Team assignments, since you were about to begin that responsibility on September 27, 1984. Do you believe it was appropriate for you as a Board Member to miss that assignment, especially when the trip you took was clearly discretionary?

Answer. The Go-Team responsibility for Members rotates on a calendar basis. That 7-day responsibility starts and ends at 1700 hours each Thursday. Because all personal plans cannot always be arranged to miss a weekly assignment, it is not uncommon for Members to trade with one another. I have done this with other Board Members. There is no obligation to trade should you be asked because there is generally one Member who will agree to trade. Further, such trading is not done privately because a memorandum announcing it is circulated throughout the Board. Before leaving for Europe, I asked Member Bursley if he would be able and agree to cover the first three days of my 7-day shift for me, and I would repay him—should the opportunity arise before Senate adjournment. He willingly agreed to do so.

Question 23. It has been reported that at the end of 1984, when you completed your recess appointment with the NTSB, you continued to use office space, former staff and materials there, even though you were no longer employed by the NTSB. Is this true? What was the exact date that you vacated the offices at 800 Independence Avenue?

Answer. As Senate adjournment approached and my confirmation was unlikely, I inquired of the Chairman how soon I would have to remove my books and personal items from the NTSB office. Because I expected renomination and obtained a consulting position with NASA that would retain my Federal employment, he suggested that I leave my possessions in the office until my future status with the NTSB was resolved. He said there was precedent for nominees to be furnished office space in anticipation of a confirmation hearing. Since the office would remain empty and I would be working at NASA Headquarters in the next building, he proposed that I not move my materials out. Since NASA did not have an office immediately available for me, this was a temporary and appreciated convenience. I have done no work in the office aside from consulting my library for brief periods, and visits to the office have averaged less than once a week.

Regarding my former staff, they were moved out of the offices on my last day, relocated in the opposite end of the building, and given new work assignments.

Question 24. It has been alleged in a letter sent to the Commerce Committee by "Concerned Staff of the NTSB" that on a trip to St. Albans, Vermont, to conduct a Safety Board investigatory hearing into an Amtrak accident, that you were accompanied by your wife and that you sought Federal reimbursement for a double room. Is this correct?

Answer. No, it is not. I listed the rate of $37.10 per night as did other single parties.

Question 25. Your total subsistence reimbursement request for that trip totaled $165.45 for three days of travel. Is that correct? Was this amount in line with the official Federal per diem rate for that city at that time? If not, what reasons did you give for exceeding that rate?

Answer. Yes, the amount is correct. I was advised that I had the option of requesting reimbursement of my actual expenses for that trip since there was only about $5 per day difference between the official Federal per diem rate of $50.00 per day. I elected to do so. The attachment [1] reimbursement form shows my request and that it was approved.

POST-HEARING QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS OF MR. HILL

Question 1. In light of the facts that A) the current generation of Emergency Locator Transmitters (ELT), a homing device carried on general aviation aircraft to locate downed planes, has a well documented history of poor performance, often working when they should not, producing a 97 percent false alarm rate, and working only 30 percent of the time when they should, when an accident has occurred; and B) the FAA is aware of the problem and has for three years taken an unaggressive role in discussions with other involved agencies (such as NASA, NOAA, FCC, the U.S. Coast Guard, and the Air Force):

Do you see a need for the NTSB to get involved in this issue?

Answer. It appears that the National Transportation Safety Board is already involved with this issue, to some degree, by the very fact that in recent years they have published both a special investigative report and a special study concerning Emergency Locator Transmitters (ELT). Each report resulted in several recommendations being made to correct flaws in either existing hardware or procedural practices. Since, apparently, improvements are progressing at only a very slow pace, this then returns to the basic issue of how aggressive the NTSB should be pushing not only these recommendations concerning ELTs, but any of its many recommendations. In my opinion, once a recommendation is brought forward, it is a responsibility of the NTSB to not let it slip from sight.

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[1] The attachment is in the Committee files.

Question 2. In concert with the FAA, will you support the ICSAR's (Interagency Committee on Search and Rescue) recommendation that the FAA: (a) Issue a new Technical Standard Order (TSO) for ELTs, and promulgate new regulations providing for an ELT certification program based on comprehensive laboratory and field testing to ensure that units manufactured in accordance with the new TSO function as designed; (b) Require ELTs to be manufactured in accordance with the new TSO, beginning as soon as possible; (c) Require aircraft to carry only ELTs meeting the new standard within a reasonable period of time?

Answer. On the surface, these three recommendations have obvious merit. Certainly the history of poor performance from existing ELTs is unacceptable and leaves a wide area for improvement. Taking these recommendations at face value, I would be inclined to support their adoption; however, temporarily I must reserve judgement pending my becoming more familiar with the issue.

POST-HEARING QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS OF MR. LAUBER

Question 1. In light of the facts that A) the current generation of Emergency Locator Transmitters (ELT), a homing device carried on general aviation aircraft to locate downed planes, has a well documented history of poor performance, often working when they should not, producing a 97 percent false alarm rate, and working only 30 percent of the time when they should, when an accident has occurred; and B) the FAA is aware of the problem and has for three years taken an unaggressive role in discussions with other involved agencies (such as NASA, NOAA, FCC, the U.S. Coast Guard, and the Air Force):

Do you see a need for the NTSB to get involved in this issue?

Answer. It is my understanding that the NTSB has been involved in the ELT issue, and has conducted and published a Special Study in 1978 and a Special Investigation Report in 1980. A total of 12 recommendations regarding ELT problems have been issued by the Board. I believe that the majority of these recommendations are classified as "open-acceptable action."

The FAA has recently adopted TSO C-91A which sets new performance standards, and addresses three areas of improvement: (a) addition of a monitor with an aural or visual warning; (2) an improved g-switch; and (c) improved fire and impact survivability. These cover the major issues addressed in the NTSB recommendations. I also understand that a study is underway to evaluate the effectiveness of adding a suitable ELT monitoring system, and that the FAA has a rulemaking project underway to amend 14 CFR 91.52 to implement suitable changes. I believe the NTSB should continue to monitor closely the FAA's activities to remedy these long-standing problems.

Question 2. In concert with the FAA, will you support the ICSAR's (Interagency Committee on Search and Rescue) recommendation that the FAA: (a) Issue a new Technical Standard Order (TSO) for ELTs, and promulgate new regulations providing for an ELT certification program based on comprehensive laboratory and field testing to ensure that units manufactured in accordance with the new TSO function as designed; (b) Require ELTs to be manufactured in accordance with the new TSO, beginning as soon as possible; (c) Require aircraft to carry only ELTs meeting the new standard within a reasonable period of time?

Answer. It is my understanding that at least some of the ICSAR's recommendations have been adopted by the FAA, and that cost-benefit analyses are underway regarding the others. As I stated above, I believe the NTSB should continue to monitor FAA activity in this area, and if necessary, be prepared to make additional recommendations if problems persist.

POST-HEARING QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS OF MR. GROSE

Question 1. In light of the facts that (A) the current generation of Emergency Locator Transmitters (ELT), a homing device carried on general aviation aircraft to locate downed planes, has a well documented history of poor performance, often working when they should *not*, producing a 97 percent false alarm rate, and working only 30 percent of the time when they *should*, when an accident has occurred; and (B) the FAA is aware of the problem and has for three years taken an unaggressive role in discussions with other involved agencies (such as NASA, NOAA, FCC, the U.S. Coast Guard, and the Air Force):

Do you see a need for the NTSB to get involved in this issue?

Answer. The NTSB has been involved in the issue of unreliable ELTs for more than 10 years. But if "involvement" is restrictively intended to mean "joining other parties who have judged the FAA as unaggressive," I would want to independently evaluate FAA performance and be convinced that there was unreasonable foot-dragging before urging further NTSB involvement.

Question 2. In concert with the FAA, will you support the ICSAR's (Interagency Committee on Search and Rescue) recommendation that the FAA: (a) Issue a new Technical Standard Order (TSO) for ELTs, and promulgate new regulations providing for an ELT certification program based on comprehensive laboratory and field testing to ensure that units manufactured in accordance with the new TSO function as designed; (b) Require ELTs to be manufactured in accordance with the new TSO, beginning as soon as possible; (c) Require aircraft to carry only ELTs meeting the new standard within a reasonable period of time?

Answer. I heartily support improvement of ELT reliability. However, if the phrase "in concert with the FAA" means that the FAA has already endorsed the ICSAR recommendation, there appears to be little reason for the NTSB to endorse—at this late date—something that the Board recommended, at least in spirit, in 1978 and that the FAA intends to undertake without further NTSB endorsement. Instead, the NTSB should monitor and aggressively promote FAA follow-through action on the three-step recommendation.

REGIONAL AIRLINES ASSOCIATION,
Washington, DC, October 4, 1985.

Hon. NANCY KASSENBAUM, *Chairman,*
Aviation Subcommittee U.S. Senate, 302, Russell Senate Office Building, Washington, DC.

DEAR NANCY KASSEBAUM: Recently the President sent to the Senate his nomination of Dr. John Lauber to serve as a member of the National Transportation Safety Board. Dr. Lauber, a human factors researcher, is one of our nation's foremost experts on aviation safety, having contributed significantly to accident prevention through his work in cockpit resources management. His nomination will bring to the Board outstanding technical expertise, valuable across the many transportation modes for which the Board condusts accidents investigations.

The Regional Airlines Association enthusiastically endorses this nomination and urges prompt action on confirmation.

Sincerely,

ALAN R. STEPHEN,
Vice President, Operations.

NATIONAL BUSINESS AIRCRAFT ASSOCIATION, INC.,
Washington, DC. October 18, 1985.

Hon. BOB PACKWOOD, *Chairman,*
Senate Committee on Commerce, Science and Transportation, SD–508 Dirksen SOB, Washington, DC.

DEAR MR. CHAIRMAN: The National Business Aircraft Association, Inc., which represents the interests of some 3,000 companies which utilize aircraft as an aid to conduct of their businesses, wishes to express its unqualified endorsement of the nomination of John K. Lauber, Ph.D., for membership on the National Transportation Safety Board (NTSB).

Dr. Lauber's pioneering work in the area of human factor research, particularly is it relates to aeronautics, has been well known to us for more than a decade. He is a highly respected professional and in our view would bring unique experience and qualification to the work of the NTSB.

It is well known that exploration of the interface between men and machines is one of the last remaining frontiers in the vast field of safety analysis. Dr. Lauber's work in the Life Sciences group at the Ames Research Center, National Aeronautics and Space Administration (NASA) has been a vital component in that promising exploration.

His contributions will serve him and the nation well and we heartily commend him to you for confirmation as a Member of the NTSB. As to our general views on the qualifications of nominees for positions on the Board, I enclosed a copy of a joint letter to which we were a signatory and which was sent to the White House earlier this year.

I hope that the views expressed in the letter will be useful to you as you examine the qualifications of candidates.

Sincerely,

John H. Winant,
President.

MICHAEL A. McMANUS, JR., AND NEAL B. FREEMAN TO SERVE ON THE BOARD OF DIRECTORS, COMMUNICATIONS SATELLITE CORPORATION

WEDNESDAY, OCTOBER 23, 1985

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The committee met, pursuant to notice, at 9 a.m., in room SR-253 of the Russell Office Building, Hon. Barry Goldwater presiding.

Staff members assigned to this hearing: Macky Ayers and Dale Brown, professional staff members; and Tom Cohen, minority staff counsel.

OPENING STATEMENT BY SENATOR GOLDWATER

Senator GOLDWATER. The meeting will come to order.

I want to apologize for the lack of attendance, but the Senate is already in session. We have about a year of work to do in 1 month, and in our usual way we will not get it done.

It is my pleasure to welcome you today, Mr. Neal Freeman, for reappointment to the Comsat Board of Directors, and Mr. Michael McManus, Jr., upon his appointment to the Comsat Board of Directors.

I might say, there is a rapidly expanding technological advancement in the telecommunications field, and you two gentlemen certainly appear to be individuals of great talent and ability who will serve in this position with skill and ability.

I am pleased that the President has seen fit to renominate you, Mr. Freeman, and to nominate you, Mr. McManus.

At this point, I will stop. If you have any opening statements you want to make or submit, you may.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF NEAL B. FREEMAN

Residence: 2367 Hunter Mill Road, Vienna, Virginia.

Born: July 5, 1940, New York, New York.

Marital status: Married—Jane Louise Metze.

Children: Malcolm T., 18; James B., 16; Kathryn R., 13.

Education: Phillips Exeter Academy, Exeter, N.H., 1955-1958, Diploma; Yale University, New Haven, Conn., 1958-1962, B.A.

Employment record: 1976 to present, Jefferson Communications, Inc., 11730 Bowman Green Drive, Reston, Va., President; 1983 to present, The Blackwell Corporation, 11730 Bowman Green Drive, Reston, Va., Chairman; 1967 to 1976, The

Hearst Corp., 235 East 45th Street, N.Y., N.Y., Executive; 1966 to 1967, Arlington House, 81 Huguenot St., New Rochelle, N.Y., Editorial; 1965 to 1966, Washington Star Syndicate, 444 Madison Avenue, N.Y., N.Y., Editorial; 1963 to 1965, National Review, 150 East 35th Street, N.Y., N.Y., Editorial; 1962 to 1963, Doubleday & Co., New York, New York, Trainee.

STATEMENT OF NEAL B. FREEMAN

Mr. **FREEMAN**. Mr. Chairman, you will be relieved to hear that I do not have an opening statement. I would just like to say that I have enjoyed serving the last 20 months or so, and look forward to a full term, you and your colleagues willing.

As you say, this is an exciting time to be involved in telecommunications, and I am glad to be part of it.

Senator **GOLDWATER**. Well, we are certainly happy to have you here.

We will hear from Mr. McManus now, and then I will ask a few questions.

[The biographical sketch follows:]

BIOGRAPHICAL SKETCH OF MICHAEL A. MCMANUS, JR.

Residence: 425 East 86th Street, Apt. 11A, New York, New York.

Born: March 11, 1943, Boston, Massachusetts.

Marital status: Single.

Education: University of Notre Dame, 1960-1964, B.A., 1964; Georgetown Law Center, 1964-1967, J.D., 1967.

Employment record: 1970-1974, Associate, Cadwalader, Wickersham & Taft, One Wall Street, New York, New York; 1974-1975, Executive Vice President, American Freedom Train Foundation, Bailey's Crossroads, Virginia; 1977-1982, Corporate Counsel, Pfizer, Inc., 235 East 42nd Street, New York, New York; 1982-1985, Assistant to the President, The White House, Washington, D.C.; 1985-present: Executive Vice President, Pantry Pride, Inc., 6500 North Andrews Avenue, Fort Lauderdale, Florida and 36 East 63rd Street, New York, New York; 1975-1977, U.S. Department of Commerce; 1982-1985, Assistant to the President, The White House.

STATEMENT OF MICHAEL A. McMANUS

Mr. **MCMANUS**. Mr. Chairman, having never been through this process before, I just wanted to say that I consider it a great honor and privilege to be here today, and also to have been nominated by the President to serve on the Board of Directors of the Communications Satellite Corporation.

I left government service about 6 months ago, and I have been hoping to have an opportunity to continue to make a contribution to the public sector. I think that Comsat offers a unique opportunity for me to do that in an exciting and dynamic way, and I look forward to serving.

I would be happy to answer any questions you may have.

Senator **GOLDWATER**. Thank you. I see we have our New York Senator here. Would you care to make a few remarks?

STATEMENT OF HON. ALFONSE D'AMATO, U.S. SENATOR FROM NEW YORK

Senator **D'AMATO**. Mr. Chairman, not wanting in any way to diminish the luster, the service, and the distinguished record of achievement that my good friend, Mike McManus, a New Yorker, has had, I would simply say, Mr. Chairman, that Mike McManus is a man of great intellectual capacity, and more importantly, he is a person of great integrity. I believe we would indeed be very fortunate to have Michael once again unveil his unique talents and make them available to us in the administration.

I wholeheartedly support his nomination to this position.

Senator **Goldwater**. I thank the gentleman from New York. Thank you very much.

Senator D'**Amato**. Thank you.

Senator **Goldwater**. For both of you gentlemen: With a publicly held corporation of this kind, and as a public member by Presidential appointment, what role do each of you see in it for yourself?

Mr. **Freeman**. Senator, the way it has evolved, there is really a twofold role.

First, there is the fiduciary responsibility that all directors have to the shareholders. In that respect, the Presidential directors are no different from the shareholder-elected directors.

The other responsibility is the one that you in the Congress have charged Comsat with, and that is representing the country in international satellite matters. And I think the Presidential directors tend to take a special interest in those matters.

I cannot speak for the first 21 years of the Corporation's history, but the last 2 years we have had a very active international matters committee—and that includes the three Presidential directors, plus Melvin Laird, the former Secretary of Defense. In that body, we meet as a group with Mr. McFarland of the National Security Council, with Mr. Colino of Intelsat, and other leading figures in international communications.

So I think there is a special responsibility in addition to the general responsibility.

Mr. **McManus**. I am sure I cannot say it any better than Mr. Freeman, but I would just like to confirm my understanding that it is what I would view really as kind of a constituency directorship in the sense we are nominated by the President of the United States, and certainly have the administration and Government interest that we are a part of; but, at the same time, we share the same responsibilities that the other independent directors do.

So I would define it as a constituency directorship with those two constituencies.

Senator **Goldwater** This question is for both of you again. I know, Mr. Freeman, you have had in your background some connection with an electronics firm. I just want to ask if either of you gentlemen know of any conflict of interest, or any other reason why you should not serve on the Board.

Mr. **Freeman**. No.

Mr. **McManus**. No, Mr. Chairman, I do not.

Senator **Goldwater**. You possibly know of my great interest in this field that you will be working in. I happen to have a dish myself. I fiddle around with it a lot, and I have a great interest in it. So I am just wondering if either of you feel that it might be appropriate for Comsat to be allowed to branch out into areas of business, or to acquire other firms which are engaged in businesses wholly unrelated to the original purposes for which the Corporation was set up in the 1962 act.

Mr. **McManus**. Well I, having never sat on the Board or attended a meeting of the Board of Comsat, I am not privy to what their own internal discussions have been; but I would have to say, Senator, that my view would at the present time be that that is probably not an opportunity that they should look at. I think that in the present arena, or if there are some additional changes in the Communications Act or the way in which the Government is involved with the Corporation, that I think its interests now are well defined in the areas in which they have been practicing.

Mr. **FREEMAN**. I think there are two cuts at that. One is the legal question, and there counsel has to have reference to the act.

But as a policy matter, it strikes me as somewhat foolish, because the telecommunications area is so rich in possibilities that there is not only room for a lot of expansion by Comsat, but for many other firms as well. So I would hope our concentration would be in this rapidly growing area.

Senator **GOLDWATER**. Well, I agree with you. But of course there is always that temptation by all Government-created agencies to branch out into other fields. We are running into it now in Public Broadcasting, and you can argue for it, and you can argue against it. I personally feel that a big contribution Comsat can make and is making will be the introduction of the small, affordable dish and small affordable receiver that will bring the cost of satellite reception down into the $200 to $400 range. I know that is possible; it just has not been done.

I think Comsat has done an outstanding job. I think it is one of the outstanding Government agencies that we have.

Mr. Freeman, do you feel that Comsat is continuing to carry out its international mandate to the best of its ability?

Mr. **FREEMAN**. Well, Mr. Chairman, obviously I do or I would not be here. I think the—as a matter of fact, it struck me on the occasion of Joe Charyks' retirement earlier this month. He is an old friend of yours, I know, but he was the first employee of Comsat in 1963, and he performed what I regard, looking back on it, and I can say this because I had nothing to do with it, as at least a small to medium sized miracle. He was enjoined by the Congress and encouraged by the President to go forth and create a global system at a time when there could not have been more than two or three dozen people in the world who fully understood the nuance of that assignment or what might be entailed in its completion, and yet because he did so with modesty and apparent effortlessness, he attracted a lot of criticism—that seeming to be the Washington pattern.

So I think the international responsibilities have been superbly discharged by Comsat, not just adequately.

Senator **GOLDWATER**. I agree with you on that.

Mr. Freeman, I noticed in your background paper that you belong to the National Cartoonists Society. Do you practice it?

Mr. **FREEMAN**. Guilty. I practiced it ineptly and over a long period of time, but I have enjoyed greater success in syndicating cartoonists who have greater talent than my own.

Senator **GOLDWATER**. I asked that because I have a great interest in it. There was a classmate of mine in high school who won two Pulitzer Prizes by the name of Rich Manning.

Mr. **FREEMAN**. Oh, sure.

Senator **GOLDWATER**. Do you know of him?

Mr. FREEMAN. Of course.

Senator GOLDWATER. I did not think you were old enough to know of him. He is my age, and that is getting up there.

Mr. FREEMAN. He is a legend.

Senator GOLDWATER. Yes, he is.

Well, I do not have anything else here to ask you. As you can see, we do not have a big attendance this morning. I will put your names up to the members of the committee today, and I feel certain they will all approve, and we will report your names to the floor favorably.

I want to thank both of you for being here, and to thank both of you for being willing to serve. This is a very, very important field. I do not think any of us realize the importance of communications yet. It is growing so fast that we do not understand it.

I have a little gadget on my television set in my office that I can get all the weather in the United States as a pilot. If I want to file a flight plan to Phoenix, I just write it out and slip it in the machine, and in about 5 minutes it comes back with all the weather en route, best altitudes, time, and approval or disapproval by the FAA, and a pictoral display of the entire country—the fronts, the precipitation, the highs and lows.

When they get it so that your wife can slip a card in there and tell where you are, I want to sell that thing.

It was a pleasure to have you gentlemen here. The meeting will be adjourned.

[Whereupon, at 9:13 a.m., the hearing was adjourned.]

CAROL G. DAWSON, TO BE A COMMISSIONER, CONSUMER PRODUCT SAFETY COMMISSION

THURSDAY, OCTOBER 24, 1985

U.S. Senate,
Committee on Commerce, Science, and Transportation,
Washington, DC.

The committee met, pursuant to notice, at 2:03 p.m., in room SR-253, Russell Senate Office Building, Hon. Bob Kasten presiding.

Staff members assigned to this hearing: Macky Ayers, professional staff member; Chuck Harwood, staff counsel; and Loretta Dunn, minority staff counsel.

OPENING STATEMENT BY SENATOR KASTEN

Senator Kasten. The committee will come to order.

Today the Committee on Commerce, Science, and Transportation is considering the nomination of Carol G. Dawson to be a Commissioner of the Consumer Product Safety Commission. Commissioner Dawson's nomination was submitted to the Senate by the President September 9, 1985.

Before assuming her current position as a CPSC Commissioner, Carol Dawson served at the Department of Energy as the Deputy Special Assistant to the Secretary. She received a recess apppointment to the CPSC on July 6, 1984 and was confirmed by the Senate on March 18, 1985, for a term which expires on October 26 of this year. Early this year, Commissioner Dawson was selected by her fellow Commissioners as the CPSC's Vice Chairman.

Commissioner Dawson, we are pleased to welcome you. The answers that you have submitted in response to the committee's prehearing questions will be made part of the record along with your biographical summary.

It is my understanding that Senator Trible is planning to join us, but I would like to suggest, Carol, that you come up and sit down. Before proceeding further, I would like to ask if other committee members have opening statements that they would like to make at this time.

Senator Gorton.

Senator Gorton. Thank you, Mr. Chairman. I do not have an opening statement at this time.

Senator Kasten. My distinguished colleague and my friend, Senator Paul Trible, who is a member of the committee, has an introductory statement concerning Commissioner Dawson.

I also have a statement from the senior Senator from Virginia, Senator Warner. Senator Warner will not appear. I will insert his statement in the record immediately following the statement of Senator Trible, the Senator from Virginia.

Senator Trible.

OPENING STATEMENT BY SENATOR TRIBLE

Senator TRIBLE. Thank you, Mr. Chairman.

Let me just welcome with great pleasure Carol Dawson, a Virginian, a long-term friend. We have known each other and worked together for almost a decade. She is an extraordinarily well qualified choice for a full 7-year term with the Consumer Product Safety Commission, where she has served since July of 1984.

Let me say very briefly, Mr. Chairman, that Carol Dawson's list of accomplishments is remarkable. She is a prolific writer. She has served this administration at the Commission, the Department of Energy and the Office of Personnel Management. She has also previously worked on Capitol Hill and the White House. In addition to those accomplishments, she has found time in a very busy life to raise four fine children.

Clearly her breadth of experience will serve her well in this position or, for that matter, any other she takes on. She is an intelligent and openminded professional and it is a pleasure to recommend her for prompt approval to a new term as Commissioner to this committee and to the full Senate.

[The material referred to follows:]

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM VIRGINIA

Mr. Chairman: It is my great pleasure this afternoon to introduce Carol G. Dawson to the Committee.

Ms. Dawson has been appointed by President Reagan to serve as a Commissioner of the U.S. Consumer Product Safety Commission.

Ms. Dawson earned a Bachelor of Arts Degree from Dunbarton College of Holy Cross in Washington, D.C. and did graduate work in political science at Catholic University.

She was a founding member of Young Americans for Freedom and her biography appears in Outstanding Young Women of America and in the 1980 edition of Who's Who in the East.

In 1975, she was listed in Who's Who of American Women.

Her very successful professional career includes contributions to various news periodicals as well as a position at the White House as a news Analyst in 1969.

She was a member of the Presidential Transition Team at the U.S. Office of Personnel Management and later served as Deputy Press Secretary at the Department of Energy.

She was then appointed Deputy Special Assistant to Secretary of Energy, Donald Hodel.

Ms. Dawson was sworn in as a Commissioner at Consumer Product Safety Commission on July 6, 1984.

I urge the Committee to swiftly report her confirmation so that the full Senate can move quickly to confirm her appointment.

BIOGRAPHICAL SKETCH OF CAROL G. DAWSON

Residence: 10201 Blake Lane, Oakton, Virginia.

Born: September 8, 1937, Indianapolis, Indiana.

Marital Status: Single (Divorced).

Children: Edward Carroll Bauman, 23; Eugenie Marie Bauman, 20; Victoria Ann Bauman, 17; James Shields Bauman, 13.

Education: Dunbarton College of Holy Cross, (1955–1959) Washington, D.C., B.A., 1959; Catholic University of America, Washington, D.C., one semester completed toward M.A. in Political Science 1960, (No degree); Holy Trinity High School, Washington, D.C., 1955, Diploma; Elementary Education, parochial schools in Falls Church, Virginia and Indianapolis, Indiana.

Employment record: July, 1984 to Present, Recess Appointee to the U.S. Consumer Product Safety Commission, Washington, D.C. (confirmed by the Senate an March 18, 1985); August, 1982-July, 1984, Deputy Special Assistant to the Secretary of Energy, U.S. Department of Energy Washingt, D.C.; February, 1981-August, 1982, Deputy Press Secretary, U.S. Department of Energy, Washington, D.C.; November, 1980-1981, Senior Staff Assistant to Dr. Donald J. Devine, Presidental Transition, U.S. Office of Personnel Management, Washington, D.C.; August, 1977-May, 1980, Real Estate Sales Associate, Latham Realtors, Easton, Maryland; March, 1972-August, 1977, Free Lance Writer, Contributed to various magazines and newspapers on a variety of topics; January, 1971-March, 1972, Staff Reporter, Easton Star-Democrat, Easton, Maryland; November, 1969-December, 1970, Writer-Editor, Catholic Currents, published by Triumph Magazine, Washington, D.C.; January, 1969-October, 1969, News Analyst, Writer for the President's "Daily News Summary," The White House, Washington, D.C.; March, 1966-November, 1967, Director, Information and Publications, American Conservative Union Washington, D.C.; January, 1965-February, 1966, Associate Editor, New Guard Magazine, Young Americans for Freedom, Washington, D.C.; September, 1963-November, 1964, Deputy Director of Public Information, Goldwater for President Committee and later Republican National Committee Staff, Washington, D.C.; January, 1961-September, 1963, Legislative Assistant, Congressman Donald C. Bruce (Indiana), U.S. House of Representatives, Washington, D.C.; October, 1959-November, 1960, Executive Secretary, Youth for Nixon-Lodge, Washington, D.C.; September, 1959-October, 1959, Executive Assistant to the Director, Americans for Constitutional Action, Washington, D.C.; June, 1959-September, 1959, Staff Assistant to Senator Kenneth B. Keating, Washington, D.C.

Government experience: See above.

STATEMENT OF CAROL G. DAWSON

Ms. DAWSON. Thank you very much, Senator Kasten. I have with me an opening statement which I will provide for the record and I would like to summarize that statement, if I may.

Thank you, Mr. Chairman and distinguished members of the committee. I am honored to be before you again as the President's nominee to serve on the Consumer Product Safety Commission. During my service on the Commission I have increasingly come to appreciate the need for a delicate balance between our tradition of personal freedom and the demand for ways to improve the safety of the American public.

In other words, I still subscribe to the philosophy I outlined in my previous confirmation hearing. The Commission should work toward using the least drastic means of Federal intervention possible to achieve the desired goal of reducing unnecessary risks of injury.

In the 15 months that I have served on the Commission, I have had the opportunity to address a broad variety of consumer safety issues, several of which are of particular interest to me. One of these is child drownings. Some 300 children under the age of 5 drown in residential pools each year, and another 2,000 are treated in hospital emergency rooms for submersion injuries. Many of these latter incidents leave the children permanently disabled, with tragic consequences for them and their families.

Consequently, I have become deeply involved in the work of an ad hoc task force which was established this year as a followup to our national pool and spa safety conference. I have also recommended, and the Commission has adopted, child drownings as a priority project for fiscal year 1987.

Another high priority project involving children is the Commission's continuing work on poison prevention activities. Although much has been accomplished in reducing the numbers of childhood poisonings, much remains to be done. Last year over 150,000 children aged 5 and under were treated in hospital emergency rooms as the result of the ingestion of drugs and household chemicals. Working with the National Poison Prevention Week Council, we are hoping to increase and improve our efforts in the whole area of poison prevention.

A third safety issue of particular concern to me is the Commission's work dealing with deaths and injuries associated with the use of all-terrain vehicles. I have been involved in this effort since its beginning in April of this year and have participated in four public hearings held throughout the country to discuss the problem. As you recall, Mr. Chairman, one of those was in your home State of Wisconsin and you were kind enough to testify on the subject.

I have also taken the 6-hour training course in an effort to learn more about these vehicles, and have continued to ride a variety of makes and models of ATV's over differing terrain to familiarize myself with their characteristics. This issue certainly has nationwide impact and it is one I am committed to seeing through to a satisfactory conclusion.

Management issues at the Agency also continue to interest me. We are currently awaiting a briefing on the results of the study undertaken by a special management review task force, a study I supported. I think this analysis of the Agency's operations will enable the Commission to make needed changes to respond more rapidly to consumer safety needs and make more efficient use of taxpayer funds.

In addition, I continue to support and work for eventual consolidation of the Agency's two Washington area locations. I strongly believe that in the interest of both cost efficiency and productivity, Commissioners and the professional staff of the Commission should be housed in one location. The only practical solution at the moment would be to move the Commission to the Bethesda location presently occupied by the career staff.

My work on the Commission has been rewarding and I appreciate the opportunity that you have given me to serve the public. I hope that my record has earned your approval and that you will support my nomination for a full term on the Consumer Product Safety Commission.

That concludes my statement and I would be happy to respond to any questions you may have.

[The statement follows:]

STATEMENT OF CAROL G. DAWSON

Thank you, Mr. Chairman and distinguished members of the Committee. I am honored to be before you again as the President's nominee to serve on the Consumer Product Safety Commission.

During the 15 months I have been privileged to serve as a member of the Commission, and more recently as the Commission's Vice Chairman, I have increasingly come to appreciate the need for a delicate balance between our tradition of personal freedom and the demand for ways to improve the safety of the American public. In other words, I still subscribe to the philosophy I articulated before this panel in March: the Commission should endeavor to use the least drastic means of federal intervention possible to achieve the desired goal of reducing unnecessary risks of injury. I think that view is consistent with what Congress intended when it enacted the Consumer Product Safety Act and the other safety legislation that the CPSC administers. I intend to continue using this as my guiding principle should you see fit to confirm my nomination.

During my tenure on the Commission I have had the opportunity to address a broad variety of consumer issues. Several topics have been of particular interest to me, and I would appreciate the chance to continue my work on them.

One of these is child drownings. Some 300 children under the age of five drown in residential swimming pool accidents each year, and another 2,000 are treated in hospital emergency rooms for submersion injuries. Many of these latter incidents leave youngster permanently and tragically disabled. In response to this unfortunate toll, the agency hosted a nation-wide conference on pool and spa safety earlier this year, and the information gathered from that effort is now being used to devise ways of decreasing diving and drowning accidents. Subsequent to that conference, the Commission adopted my recommendation to make child drownings an agency priority for fiscal year 1987. I was also selected chairman of the steering committee that was set up after the conference to review and implement conference recommendations to reduce pool and spa accidents. This is vitally important work that I would very much like to pursue during my term as a Commissioner.

Another project of great interest to me also involves children. It is poison prevention, which is the effort to protect youngsters from hazardous household substances including drugs and chemicals. Last year alone, over 150,000 children aged five and under were treated in hospital emergency rooms for the ingestion of such products. Special packaging has served to reduce the risk of exposure but much remains to be done, including educating people about the need to use child-proof caps on prescription drugs and other products even when they don't have small children in the household. One study done for CPSC showed that a significant portion of childhood poisonings occur with grandparents' medication, either when the children visit the grandparents or the grandparents visit the children. The CPSC is a member of the National Poison Prevention Week Council, which annually gets the message out about childhood poisonings, and I am happy to say I am assisting the Council in its preparation for the 25th anniversary celebration of its work. I believe this is vitally important work, and I intend to pursue it as one of my priorities while I serve on the Commission.

A third safety issue of importance to me is the deaths and injuries associated with all-terrain vehicles. These increasingly popular three- and four-wheeled off-road vehicles have been associated with over 300 deaths since 1982 and with what is now an estimated 100,000 injuries a year. Many of those deaths and injuries involve youngsters under 16 years of age. We don't know what is causing this rising toll, so the Commission has embarked on a program to study the vehicle and its uses. I have been involved in this effort from its inception. I have attended public hearings on the subject in Mississippi, in Texas, in your home state of Wisconsin, Mr. Chairman, and most recently in California in an effort to learn more about these vehicles. I have also taken the industry's six-hour training course and ridden ATVs over a variety of terrain in order to experience first-hand some of the machine's unique characteristics. This issue has nation-wide impact, and it is one I am committed to seeing through to a satisfactory conclusion.

My interests go also to the future of the agency. I was an early proponent of an independent review of the management of the CPSC in order to find more efficient ways of carrying out our mandate. We are about to see that project completed, and I look forward to its results. I think this outside analysis of the agency's operations will enable the Commission to make the needed changes to respond more rapidly to consumer safety needs while making more efficient use of taxpayer funds.

Speaking of saving the taxpayer some money, I intend to continue pushing for the consolidation of the agency's Washington, D.C. and Bethesda offices. In the interest of both cost-efficiency and increased productivity, the Commissioners and the professional staff should be housed in one location. I have been unable to find a convincing justification for keeping the Commissioners physically separated from the staff, particularly when we are housed in expensive downtown space that we could duplicate in Bethesda for a fraction of the cost. I have seen estimates of cost savings from consolidation ranging from $250,000 to $500,000 annually. In these tight budgetary times, I can see no reason why the Commission should spend that kind of money every year for such an extravagance.

There is another concern I have regarding the future operations of the agency. It involves Section 15 of the CPSA, which gives the Commission the enforcement powers needed for the agency to have any meaningful impact on consumer safety. Through Section 15, the CPSC can order manufacturers and distributors of a hazardous product to give notice of the hazard, to repair or replace the product, or to refund its purchase price. This enforcement tool is effective, however, only when used in a timely and efficient manner.

I view as vital the technical, engineering and human factors support needed to assess products that may present substantial product hazards. Product Safety Assessment, the early analysis of potential hazards associated with specific products, is in many respects the heart of the agency's activities. Thus, I support the allocation of adequate staffing and funding in this area. Further, I have had ongoing discussions with the staff about a way of improving our Section 15 activities in general and continue to emphasize the need for effective enforcement activity.

I would like to be a part of the continuing effort to refine the CPSC's methods of operation and its goals, because the impact of that effort will affect the U.S. consumer for years to come. I would also like to remain on the Consumer Product Safety Commission because I feel that I can contribute to the effective production of the American people.

My work on the Commission has been rewarding, and I appreciate the opportunity that the members of this panel have given me to serve the public. I hope that my record thus far has earned your approval and that you will therefore support my nomination for a full term on the Consumer Product Safety Commission.

Thank you.

Senator KASTEN. Commissioner Dawson, thank you very much.

Commissioner Dawson, during the Commission's consideration of its proposed 1987 budget I understand that you advocated setting aside funds for contingencies such as emergency investigations. Could you briefly describe why you believe a contingency account or an emergency investigation account, or whatever it would be called, is necessary, and, second, how you would propose funding that?

Ms. DAWSON. As you know, in the deliberations on the 1987 budget I did file a statement at the time of my vote and it indicated my concern about a certain amount of lack of flexibility in the budget to deal with new hazards as they arise.

We, in our budget deliberations, allocate every staff month and every contract dollar 2 years in advance when we work on our budget. In doing this, we, I think, fail to take into account the historical reality that many hazards are identified after the budget requests are submitted, and when these hazards do arise the resulting juggling of time and funds is an inefficient process that often waters down or eliminates activities that the Commission budget identifies as being necessary to protect the public.

For example, in 1983 and 1984 we diverted large amounts of time, staff time I am talking about, to investigate alleged problems with metal chimneys. In 1985 and 1986 we now have diverted large amounts of time and funds to the investigation of ATV's, which was not a preplanned activity.

I am not talking about a large amount. I am talking about perhaps a pool of, let us say, 6 to 10 staff-years—that would be around 100 staff-months—about $200,000 in contract dollars, a very small percentage of our overall resources. The point here is that I think the Commission is a reactive agency and we do not know what is going to happen in 2 years. Past experience shows that these unanticipated issues will arise.

Now there is a way of structuring this so that this use of time and money would be accounted for. We have presently in place a management information system which requires the managers to account for every hour of time and dollars spent on every project, which would permit us to ensure that the time is used prudently and that we could report accurately to Congress on how those resources were used.

I see it as a management efficiency tool. I think that it would be helpful for our budget planning purposes to take note of the fact that we do often have hazards that arise that we have not anticipated.

One final point in this. Obviously this has not taken place with the 1987 budget, so that I am simply in the position at this point of raising the issue with my colleagues and hoping that in the next budget deliberations they will take note of this and perhaps together we will come up with some better ways of dealing with the unanticipated problems that do arise.

Senator KASTEN. On another subject, you mentioned in your testimony the ATV questions. While I was in Wisconsin last September I did have the opportunity, as you mentioned, to appear before the Consumer Product Safety Commission during the Milwaukee hearings on ATV safety. As you know, there have been 22 ATV-related deaths in Wisconsin since 1982. Obviously this is a matter of great concern for all of us, but particularly in Wisconsin, where we see an unusual number of ATV-related deaths compared to most other States.

What is the agency now doing to effectively address this problem? Is the CPSC acting in a manner which is consistent with the Consumer Product Safety Act amendments enacted in 1981, which essentially called for emphasis on voluntary industry standards?

Ms. DAWSON. I agree that it is a very serious concern of the Commission. It is also one of the most complex issues I believe ever to confront the Commission. There are a multiplicity of factors involved, including technical, engineering, human factors, terrain, types of usage, variations in design—in short, almost every kind of variable known to product safety experts.

Now I agree that industry is working on, with the cooperation of the CPSC staff, a voluntary standard, and I do applaud that effort to address safety issues. But at this time we cannot really tell whether that will take care of the problem. Meanwhile, I think we need to continue with our hazard analysis, engineering work, and other types of human factors analysis before we really make a decision.

We do not want to foreclose any options, but we need to compile as much data as possible in order to reach a responsible and effective decision. As you know, we have already determined that ATVs will continue to be a priority project in 1987.

Senator KASTEN. I have other questions which we intend to submit for the record. Let me just first of all say thank you. I understand there may be additional questions that will be submitted to you by other members of the committee in addition to those that we would submit. We ask that you provide a response to those questions as expeditiously as possible.

Ms. DAWSON. I will certainly be happy to do that, Senator.

Senator KASTEN. The record will remain open for 10 days for additional material concerning Commissioner Dawson's nomination.

If there are no further questions at this time, the hearing is adjourned.

[Whereupon, at 2:16 p.m., the committee adjourned.]

[The following information was subsequently received for the record:]

PRE-HEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS

Question 1. How do you intend to ensure that the Consumer Product Safety Commission (CPSC) is accountable to Congress?

Answer. Since the CPSC is an agency whose regulatory authority arises solely through legislative delegation of authority from Congress, I believe that the Commission has an obligation to render a full and accurate accounting of its activities and expenditures to the congressional oversight and appropriations committees that monitor the agency.

Commissioners should remain vigilant in making sure the laws they administer are faithfully and fully administered. As a Commissioner, I have a role in ensuring that the CPSC is accountable to Congress. I am therefore prepared to provide to the respective Committees of the Senate and House of Representatives whatever testimony or assistance they might require to monitor the activities of the Commission. I also fully support the provisions of Section 27(j) of the Consumer Product Safety Act (CPSA), which require the Commission to account to Congress for administration of its delegated authority through the yearly submission of a comprehensive report of the agency's activities.

Question 2. A CPSC staff report issued earlier this year concluded that industry representatives were causing unnecessary delays or ignoring CPSC staff suggestions during the development of some voluntary product standards. How should the CPSC respond in such instances?

Answer. I believe that the CPSC staff report to which the question refers is the "First Annual Voluntary Standards Report for Fiscal Year 1985," which was issued in April 1985. While the report did indicate that there had been varying rates of progress with 55 voluntary standards projects on which the staff has been working in FY 1985, the consensus was that, in most cases, satisfactory progress was being made. In those few instances where progress has not been forthcoming, I believe the Commission has retained its options, where necessary and appropriate, to seek regulatory redress should the lack of progress and the nature of the problem being addressed rise to a level that warrants more vigorous Commission involvement.

Question 3. Under what circumstances should the CPSC seek elimination of a product safety rule or standard? Please describe any rule or standard to which you believe such circumstances may currently apply.

Answer. In accordance with Section 9(h) of the CPSA, I would support revocation of a consumer product safety rule only when the Commission formally determines that the rule is not reasonably necessary to eliminate or reduce an unreasonable risk of injury. During my tenure, the Commission has revoked one mandatory standard: the requirement for oxygen depletion sensors or unvented gas-fired space heaters. I concurred in that decision. Among the criteria I would consider in determining whether to revoke a rule are: 1) the degree and severity of the risk of injury the mandatory standard addresses; 2) the degree of compliance with the standard; 3) the likelihood that compliance with the standard will continue in the absence of a mandatory standard; 4) the nature of the industry subject to the standard; 5) the presence or absence of an industry-wide certification process to assure continued compliance; 6) the presence or absence of state or local codes which could insure continued compliance; and, 7) the existence of alternative remedies to address the hazard which may be precluded by the existence of the mandatory standard.

These are, of course, questions of fact which require full exploration and briefing by the staff to permit the Commission to make a reasoned decision. At present, I am unaware of amy staff activity to bring such an issue before the Commission.

Question 4. Under what circumstances should the CPSC seek a new or strengthened product safety rule or standard? Please describe any product to which you believe such circumstances may currently apply.

Answer. In determining the circumstances under which the Commission should seek a new or strengthened product safety rule or standard, it is imperative to be guided by the statutes we administer. In considering whether to issue a new rule under the CPSA, the Commission must adhere to the requirements in Sections 7, 8 and 9 of the CPSA establishing detailed procedures and criteria for the initiation of formal rulemaking.

When the Commission has information that preliminarily indicates a product in commerce may present an unreasonable risk of injury, a risk that cannot be addressed in a timely manner through effective voluntary action, then the agency begins a dialogue on the necessity for remedial action through publication of an Advance Notice of Proposed Rulemaking (ANPR). This congressionally mandated notice insures that the Commission will have access to the fullest range of alternatives—voluntary as well as mandatory—available to address the hazard if remedial action is appropriate.

The recent successful resolution of the risk of injury associated with chain saw kickback demonstrates the effectiveness of the ANPR process. I would note, however, that publication of an ANPR should be based on a factual assessment of the degree and nature of the hazard to the public, rather than on speculation. Without the benefit of staff analysis, I would be hesitant to recommend any candidates for issuance of an ANPR at this time.

Question 5. Please state whether you agree or disagree, and why, with each of the following recommendations concerning the Consumer Product Safety Commission (CPSC) by the President's Public Sector Survey on Cost Control (Grace Commission):

(a) Reorganize the staff of the CPSC through elimination of the Office of Program Management, reduction of the ratio of management to professional staff, and establishment of performance evaluation criteria;

(b) Reduce the staff of the Administration Directorate;

(c) Consolidate CPSC Headquarters; and

(d) Abolish the five regional CPSC offices.

Answer. When I first became a member of the Commission, I had occasion to review the recommendations of the Grace Commission in my consideration of the FY '86 budget. As a result, I strongly supported a proposal for the establishment of an independent group to undertake a comprehensive management review of the operation of the agency. The objective of this effort is to determine areas, including those targeted by the Grace Commission, in which we could reduce costs and streamline operations without sacrificing the objective of protecting the public. We are scheduled to be briefed on the findings of that management review in early November. With this background, my answers are as follows:

(a)(1) Elimination of the Office of Program Management: I am not prepared to support sholesale abolition of the Office of Program Management, the organization that coordinates the Commission's standards activities, for two reasons. First, I have yet to be apprised of the reliability of alternative systems of coordination that could cut costs and operate more efficiently without adversely affecting our standards projects. Second, the management review group is specifically charged with reporting to the Commission on the effectiveness of the current system and alternatives to that system. When we receive the review group's analysis, I will be in a better position to make an informed judgement.

(2) Reduction of the ratio of management to professional staff: In my review of the FY 1986 and FY 1987 budgets, I became concerned that the agency may be topheavy in managerial staff. Since such an imbalance can detract from the Commission's ability to assign technical staff to specific hazard prevention activities, I proposed the deletion of several management positions and the reallocation of those positions to the technical directorates. Most of my suggestions were rejected by my colleagues. However, the results of the management review survey will provide a new, more comprehensive vehicle for consideration of this issue.

(3) Establishment of performance criteria: I support the Grace Commission's recommendation that professional performance evaluations include input from the employees' day-to-day supervisors in project activities as well as from their immediate organizational supervisors. Such input is necessary to insure that the evaluation process is an effective management tool to measure professional performance and to inform staff of the level of performance that is expected of them.

(b) Reduce the staff of the Administration Directorate: This recommendation was adopted by the Commission prior to my appointment. At present, I am unaware of any need for additional staff reduction in this directorate.

(c) Consolidate CPSC headquarters: I not only support but have formally proposed, in each of the last two budget cycles, that the Commission consolidate in one office in Bethesda. The expenditure of more than a quarter of a million dollars annually to maintain a downtown office is not only unjustifiable on the merits, but is at odds with the objective of budget reduction.

(d) Abolish the five regional CPSC offices: The five CPSC regional offices serve an important role by collecting the information necessary to identify and analyze hazards, enforcing the laws the Commission administers, providing assistance to state and local governments in their product safety activities, and informing the public of potential hazards. I support that regional work. I would note, however, that the management review group is performing an in-depth analysis of the operations of the regional offices to determine how we can deliver these services in a less costly, more efficient manner. I would, therefore, withhold final judgment on the ideal number of regional and field offices until I have had the benefit of the group's recommendations.

Question 6. Recently the CPSC approved its proposed fiscal 1987 budget. Please state how you voted and why.

Answer. At the time of my vote on the proposed FY 1987 budget, I filed a statement with the Office of the Secretary, which is attached.

STATEMENT OF COMMISSIONER CAROL G. DAWSON, CONCURRING IN PART WITH AND DISSENTING IN PART WITH THE 1987 BUDGET VOTE OF THE CONSUMER PRODUCT SAFETY COMMISSION

On October 10, 1985, the Consumer Product Safety Commission voted to submit to the Office of Management and Budget a budget request for the 1987 fiscal year calling for 568 full-time equivalent positions and $35,647,000. While I concur in the main with the staffing and budgeting requests in the FY '87 budget, I dissent from the decision to allocate funds to maintain a separate office for the Commissioners in downtown Washington, D.C.

My review of the staff's budget recommendations began with the premise that we should be frugal with the taxpayers' money. We should request only that amount of funding necessary to achieve the goal of protecting the public. On several projects, I felt that funding and staffing could be reduced without compromising the objectives of those projects, and voted accordingly. In most of these cases, my colleagues overrode my proposals.

I take no issue with the outcome of those votes, since they reflect the essence of the collegial system. Because reasonable people can differ on the merits of issues raised by the budget request, I defer to the vote of the majority in the spirit of collegiality.

There is one major expenditure in the majority budget, however, for which there is no justification and to which I must respectfully dissent. At present, the Commission spends more than a quarter of a million dollars annually to maintain a downtown office for the virtually exclusive use of the Commissioners and their immediate staff. In the fifteen months I have served as a Commissioner, no one has presented an even remotely persuasive justification to support this expenditure—one which by its very nature generates additional hidden costs for travel, staff time and duplicate services. In short, there is and can be no justification for spending over a quarter of a million dollars at a downtown site away from the bulk of the professional staff.

While I concur on the whole with the remainder of the budget request, I have another major reservation: the lack of flexibility it affords the staff to deal with hazards as they arise. In essence, the budget request allocates every staff month and contract dollar to specific projects far in advance of the commencement of work on those projects. It fails to take into account, however, the historical reality that many hazards requiring remedial action are identified after our budget requests are submitted to Congress. The resulting juggling of time and funds is an inefficient process that often waters down or even eliminates activities that the Commission budget identifies as being necessary to protect the public. Accordingly, rather than attempt to alter the FY 87 budget, I urge the Chairman and my fellow Commissioners to pursue in the next budget deliberation alternative approaches to the current budget process. We need to provide the flexibility to deal with newly discovered hazards without impeding the progress of other important safety activities of the Commission.

Question 7. Please list all votes on public matters you have cast since you became a Commissioner, the outcome of the vote, and your reasons for voting the way you did.

Answer. At my previous confirmation hearing in March, I provided to the Committee a list of votes covering the period of July 6, 1984 through January 23, 1985.

The following list[1] covers the period since then until the present. As with the previous response, the votes selected included substantive policy issues but exclude both routine administrative matters within the agency and pro forma votes concerning FOIA appeals and similar housekeeping matters.

Question 8. Please list your two or three priorities as a CPSC Commissioner. Have these priorities changed since you first joined the Commission?

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[1] The list is retained in the Committee files.

Answer. When I was appointed to the Commission, I identified three areas which I believe deserved priority treatment: state and local program support, children's products, and poison prevention.

With regard to state and local activities, I have sponsored the establishment of a permanent, ongoing program for state/local cooperation. I have also supported increased funding for state and local contracts, which multiply the value of Commission resources by enlisting state and local agencies to assist in educating the public and in responding to consumer product hazards. My interest in toys and children's products continues and, of course, I strongly support the Commission's toy safety and nursery equipment safety educational programs.

My staff and I are working closely with the National Planning Council for National Poison Prevention Week in planning the 25th anniversary of National Poison Prevention Week in 1986. In addition, I recently chaired a poison prevention panel at the Safety for Older Consumers Conference, held in Philadelphia in September and co-sponsored by the Commission and the American Society for Testing and Materials (ASTM).

In addition to these three important areas, I am vitally interested in the Commission's analysis of risks associated with all-terrrain vehicles (ATVs). Over the last year, we became aware of a substantial number of deaths and injuries associated with ATVs. While sufficient information is currently unavailable to determine the reasons for these occurrences and the remedial actions, if any, that may be necessary, the pattern of injuries and deaths is sufficiently alarming to warrant a priority investigation of these products. I have therefore assigned one of my special assistants to monitor closely the staff investigation of all-terrain vehicles and the other activities the Commisison is pursuing in this area.

Finally, I have developed a keen interest in efforts to reduce childhood drownings. Statistics indicate that there are some 300 drowing deaths annually among children under five years of age. Additionally, large numbers of near-drownings result in permanent disability to the victims. This is a significant safety hazard which I feel must be addressed in a coordinated and intensified manner. That is why I supported a Childhood Drownings Priority Project for FY 1987. I am also chairing an Ad Hoc Task Force Steering Committee to review and revise, where appropriate, recommendations of the joint CPSC/National Spa and Pool Institute conference on pool safety. Those recommendations deal with injuries related to residential swimming pools and spas, and with driving injuries as well.

POST-HEARING QUESTIONS OF THE MAJORITY AND THE ANSWERS

Question 1. On October 2, 1985, the CPSC's Chronic Hazard Advisory Panel on DEHP (a plasticizer used in children's products such as pacifiers) estimated that exposure to the substance results in 20 to 100 deaths each year. What kind of response does this situation call from the CPSC?

Answer. DEHP is a chemical that has been used in polyvinylchloride plastic products, including vinyl pacifiers, plastic baby pants, toys, and the vinyl coverings of crib bumper pads. Our most recent information indicates that many manufacturers have stopped using DEHP in these plastic products.

The CHAP report must be considered very seriously as the Commission contemplates what, if any, future regulatory action is necessary and appropriate with regard to DEHP. However, it should be pointed out that the report is but one component of the process by which the Commission is trying to ascertain the health hazard associated with DEHP in consumer products.

At this time the report is being reviewed by the Commission's staff. The staff is scheduled to give the Commission a briefing on the subject in the near future. Once the staff's analysis is done and other ongoing scientific, exposure, and economic studies are completed, the Commission should be in a better position to make a decision.

It would therefore be inappropriate for me to comment on what action, if any, the Commission should take until all available information is compiled and reviewed.

Question 2. (a) What is your view of recent efforts to extend the CPSC's jurisdiction to regulation of fixed-site amusement parks?

(b) Does the CPSC have adequate resources if it is given the authority to regulate fixed-site amusement parks?

Answer. (a) I am aware of the various bills now pending before Congress that would address this issue by giving the CPSC varying degrees of jurisdiction over fixed-site amusement rides. I am also families with the proposal, now a part of the

Senate reauthorization bill, to create a five-member Commission to study the matter.

My preference would be to encourage more states to exercise their own licensing and enforcement authority in this area, as needed. At present, almost half the states regulate fixed-site rides.

Clearly, the jurisdictional question is one for Congress to answer. However, because of concerns raised about possible safety problems with fixed-site rides, and questions about the adequacy of private and governmental responses to such problems, I believe the Senate bill's approach, authorizing a national commission to analyze all the relevant factors, has merit.

(b) Should Congress decide to reinstate CPSC jurisdiction over fixed-site amusement rides in some form, the issue of the adequacy of staff and resources would have to be addressed. The answer to the resource question would depend in large part upon the scope of the assigned jurisdiction. It would also depend, in view of this agency's limited resources, on the nature and frequency of any regulatory action and on the degree of industry cooperation involved.

POST-HEARING QUESTIONS OF THE MINORITY AND THE ANSWERS

Question 1. In your opinion, should the Commission endorse or publicly acknowledge voluntary standards?

Answer. The Commission earlier this year decided to withdraw a proposal to increase support for voluntary standards by the "adoption," "endorsement," or "recognition" of voluntary standards. The Commission voted unanimously to terminate that effort because the proposal contained too many unresolved difficulties. Some concerned legal problems, and some concerned a possible negative impact that voluntary standards endorsement by the CPSC might have on competition and innovation.

I remain committed, however, to continued efforts to cooperate with industry on voluntary standards, and give perference to such standards whenever feasible rather than issue mandatory standards. There is a fine line between encouragement and endorsement, however, and I want to make sure that any Commission involvement in voluntary standards activities stays short of actual standards endorsement.

I support seeking alternative methods by which the Commission can increase its support of voluntary standards. The Commission held a public hearing in Los Angeles recently to elicit input on the issue, and will hold another such hearing in Washington, D.C. in the very near future.

The Commission has directed the staff to study other ways to achieve the goal of promoting voluntary standards, and a number of different alternatives are under consideration. At this point, I retain an open mind on how best to fulfill the mandate of Congress on this issue.

Question 2. Should a recall be employed if most or all firms in an industry have sold a product which contains a common defect?

Answer. As I said in my answer to the same question in March, such a step must depend on the circumstances of a given case. The recall of products is the most drastic step the Commission can take to deal with substantial product hazards. It is a step that should be taken only where public health and safety require a remedy of that magnitude and where it has been determined that other remedies would not be effective.

If there were a number of manufacturers distributing a product with a common defect, and if there were reasonable cause to believe that the nature of the defect rises to the definition of a substantial product hazard, the Commission would have an obligation to act.

The Commission has a commendable track record with recalls, most of which have been developed and carried out with the cooperation of the manufacturer without having to resort to administrative complaints. Should a voluntary recall be ineffective in removing a dangerous product, or group of products, from the marketplace, I would support using the mandatory recall powers under the CPSA to protect consumers from unacceptable risks.

Question 3. In your opinion, is the CPSC doing all it should and acting as promptly as possible on ATVs?

Answer. Any time that product is associated with 324 deaths in three years and with an estimated 100,000 emergency room-treated injuries annually, we need to find out why as soon as possible. Unfortunately, the ATV issue does not lend itself to quick answers. The more we learn about ATVs, the more we realize how difficult it will be to find a single, quick "fix" for any potential safety problems.

The staff must complete a hazard analysis before the Commission can realistically determine how best to address ATV safety concerns. That is why the Commission voted for a seven-point plan of action in April to set up an ATV Task Force. The Task Force is charged with carrying out a program to study ATVs from engineering, medical, and human factors standpoints. We also asked the staff to investigate ATV accidents to see if any patterns were discernible. Staff time was borrowed from several other programs and shifted to ATV Work in order to do the work as quickly as possible. The Commission has been informed that this work is being done on schedule.

In addition, the Commission has held a total of five heraings thoughout the U.S. to gather public comments on ATV use. Not only have these hearings given us valuable information, but they have served to increase public and media awareness about the need for ATV safety. We have seen industry, state and local officials, civic organizations, and user groups respond to the concerns raised by the Commission at these hearings.

I am confident that the Commission is doing what it must to find ways to reduce the accident rate associated with ATVs, and that it is acting as expeditiously as possible given the complexity of the task.

Question 4. After serving at the Commission for over a year, is there any problem you believe the Commission should be addressing that is not being addressed?

Answer. If the question relates to specific product safety issues, then the answer must be "no." The staff analyzes potential safety problems and then briefs the Commission, giving us information with which to decide how best to proceed. That system seems to be working. To my knowledge, there are no product hazards that the staff has failed to being to the Commission's attention.

As I have mentioned in other statements to the Committee, one problem that I feel the Commission should address is the consolidation of its Washington, D.C. and Bethesda offices. I feel there is no justification for the current situation of having two headquarters locations. I would also like to see the Commission address the adequacy of the agency's structure to determine if we can increase efficiency and provide the agency more flexibility. The Commission has just been presented with the results of a management review it ordered earlier this year, but that is only a first step. That report considered the effectiveness of the agency's field structure, the adequacy of its matrix management system, and the conduct of agency research programs. I hope that each of these areas can be improved, and I will urge the Commission to deal with the suggestions presented in the management review report as quickly as possible.

Question 5. Do you believe the FY 1987 budget request should have been less than $35,647,000?

Answer. The FY 1987 budget request could have been reduced in some measure had my colleagues adopted my proposal to consoldiate the CPSC's Washington, D.C. and Bethesda offices.

As for the rest of the budget, I agreed with it in the main. I've clearly stated my support for the broad outlines of funding for hazard programs contained in the FY 1987 budget. The statement I issued after my vote on the budget and subsequently transmitted to the Committee explains my reasons for concurring in part and dissenting in part with the final budget request adopted by the Commission.

Question 6. You voted to co-sponsor public service announcements on the use of fireworks. Do you believe that such public service announcements might have misled the public as to CPSC endorsement of the use of specific fireworks?

Answer. For years, the Commission cooperated with the American Pyrotechnics Association to promote fireworks safety. This was done in the realization that, since a large number of states permit the use of fireworks of some kind, consumers are using fireworks. It was felt that an effort was needed to educate users about potential dangers and to encourage sound safety practices when using legal fireworks, as well as to discourage the use of illegal fireworks banned by the Commission.

I voted to co-sponsor the public service spots because I felt the Commission should make an effort to keep Fourth of July celebrations as safe as possible. Our legal staff's research concluded that nothing precluded the agency's participation in a cooperative effort to try to reduce injuries. It should be noted that there were stipulations in the proposal that the Commission's staff would review the proposed scripts to insure that they carried appropriate safety messages. I did not feel that the proposed announcements would mislead the public concerning the use of specific fireworks, since the thrust of the message was to promote safety in the use of legal, or Class C, fireworks.

Question 7. One of your priorities at the CPSC is child drownings. What do you think the CPSC could do to prevent child drownings?

Answer. The agency has already done part of what needs to be done, and that is to call upon experts in the field to give us the benefit of their advice. Recently the Commission cosponsored a nationwide conference of pool and spa safety. Representatives of industry, state and local government, public service organizations, and the general public gave the Commission some valuable recommendations on how best to address child drownings and diving accidents. I am now chairing a post-conference steering committee that will seek ways to implement the suggestions that were received. The entire pool safety effort will involve consumer groups and safety organizations as well as industry and government.

In addition, I urged my colleagues to make research on child drownings a CPSC priority for 1987. The project will include analysis of data on child drownings to better understand the circumstances surrounding these tragedies and an evaluation of the effectiveness of barriers, alarms and other devices designed to prevent drownings. This work will give the Commission some idea of what may or may not be effective in reducing these accidents. In order to address the issue in a more immediate way, the agency will also conduct an educational campaign to warn the public about the necessity of adult supervision of children in and around residential swimming pools.

Finally, the Commission will act as a clearing house for sharing significant data on drowning prevention efforts with state and local agencies and volunteer groups interested in implementing their own programs.